



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 31]

नई दिल्ली, जुलाई 28—अगस्त 3, 2019, शनिवार/श्रावण 6—श्रावण 12, 1941

No. 31]

NEW DELHI, JULY 28—AUGUST 3, 2019, SATURDAY/ SRAVANA 6—SRAVANA—12, 1941

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय
(सी.पी.बी. प्रभाग)

नई दिल्ली, 17 जुलाई, 2019

का.आ. 1357.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैद्यानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास, जलालावाद में श्री विक्रम सिंह रावत, सहायक अनुभाग अधिकारी को दिनांक 17 जुलाई 2019 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2017]

टी. अजुङ्गला जमीर, निदेशक (सी.पी.बी.)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 17th July, 2019

S.O. 1357.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri VIKRAM SINGH RAWAT, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Jalalabad to perform the Consular services with effect from 17 July 2019.

[No. T-4330/01/2017]

T. AJUNGLA JAMIR, Director (CPV)

नई दिल्ली, 17 जुलाई, 2019

का.आ. 1358.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के उच्चायोग, वेलिंगटन में श्री अनुभव वार्षने, सहायक अनुभाग अधिकारी को दिनांक 17 जुलाई 2019 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2015]

टी. अजुङ्गला जमीर, निदेशक (सी.पी.वी.)

New Delhi, the 17th July, 2019

S.O. 1358.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Anubhav Varshney, Assistant Section Officer as Assistant Consular Officer in the High Commission of India, Wellington to perform the Consular services with effect from 17 July 2019.

[No.T-4330/01/2015]

T. AJUNGLA JAMIR, Director (CPV)

नई दिल्ली, 17 जुलाई, 2019

का.आ. 1359.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास, दुबई में श्री हितेश, सहायक अनुभाग अधिकारी को दिनांक 17 जुलाई 2019 से सहायक कोंसुलर अधिकारियों के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/03/2018]

टी. अजुङ्गला जमीर, निदेशक (सी.पी.वी.)

New Delhi, the 17th July, 2019

S.O. 1359.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri HITESH, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Dubai to perform the Consular services with effect from 17th July 2019 .

[No.T-4330/03/2018]

T. AJUNGLA JAMIR, Director (CPV)

नई दिल्ली, 19 जुलाई, 2019

का.आ. 1360.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, वार्सा में श्री पंकज गर्ग, सहायक अनुभाग अधिकारी को दिनांक 19 जुलाई 2019 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

टी. अजुङ्गला जमीर, निदेशक (सी.पी.वी.)

New Delhi, the 19th July, 2019

S.O. 1360.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri PANKAJ GARG, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Warsaw to perform the Consular services with effect from 19 July, 2019.

[No. T-4330/01/2016]

T. AJUNGLA JAMIR, Director (CPV)

परमाणु ऊर्जा विभाग

मुंबई, 12 जुलाई, 2019

का.आ. 1361.—केन्द्रीय सरकार, परमाणु ऊर्जा विभाग के प्रशासनिक नियंत्रण के अधीन टाटा स्मारक केंद्र, मुंबई, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजभाषा नियम (संघ के शासकीय प्रयोजनों के लिए प्रयोग) 1976 के नियम 10 के उपनियम (4) के अनुसरण में अधिसूचित करती है।

[सं. 6/7/2019-हिंदी]

संजय कुमार, संयुक्त सचिव (प्रशासन एवं लेखा)

DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 12th July, 2019

S.O. 1361.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies Tata Memorial Centre, Mumbai, under the administrative control of the Department of Atomic Energy, where more than 80% staff has acquired working knowledge of Hindi.

[No. 6/7/2019-Hindi]

SANJAY KUMAR, Jt. Secy. (A&A)

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 19 जुलाई, 2019

का.आ. 1362.—सार्वजनिक परिसर (अनधिकृत कबजाधारकों की बेदखली) अधिनियम 1971 (1971 के 40) की धारा 3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतदद्वारा निम्नलिखित तालिका के कॉलम (1) में उल्लिखित अधिकारी को सरकार के राजपत्रित अधिकारी स्तर के समतुल्य अधिकारी होते हुए उक्त अधिनियम के आशय से दि स्टेट ट्रेडिंग कॉर्पोरेशन ऑफ इंडिया लिमिटेड में संपदा अधिकारी नियुक्त करती है जो प्रदत्त शक्तियों का प्रयोग करेंगे और उक्त तालिका के कॉलम (2) में संगत प्रविष्टि में उल्लिखित सार्वजनिक परिसरों के संबंध में उक्त अधिनियम के द्वारा अथवा के तहत संपदा अधिकारी पर लागू कर्तव्यों का निर्वाह करेंगे।

तालिका	
(1)	(2)
श्री पंकज सिंह, संयुक्त महाप्रबंधक (कानून), दि स्टेट ट्रेडिंग कॉर्पोरेशन लिमिटेड, जवाहर व्यापार भवन, टॉलस्टॉय मार्ग, नई दिल्ली।	कोई भी परिसर जो एसटीसी से संबंधित हो अथवा एसटीसी द्वारा या की और से पट्टे अथवा लाइसेंस पर लिया गया हो जिसमें इसके आवासीय परिसरों के साथ-साथ कार्यालय परिसर, भूमि, कोई अन्य परिसर या कोई भवन या किसी भवन का हिस्सा, उसमें बगीचा, मैदान तथा ऐसे भवन अथवा भवन के हिस्से आदि से संबंधित आउटहाउस, यदि कोई हो, को शामिल करते हुए।

[फा. सं. 6/6/2006-एफटी(एसटी)]

राम निवास, सहायक निदेशक

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 19th July, 2019

S.O. 1362.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being an officer equivalent to the rank of Gazetted Officer of the Government, to be Estate Officer in State Trading Corporation of India Limited, for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act, in respect of the Public Premises specified in the corresponding entry in column (2) of the said Table.

TABLE	
(1)	(2)
Shri Pankaj Singh, Joint General Manager (Law), State Trading Corporation of India Limited, Jawahar Vyapar Bhawan, Tolstoy Marg, New Delhi.	Any. Premises belonging to, or taken on Lease or License by, or on behalf of the STC which includes its Residential premises as well as Office Premises, Land, any other Premises or any building or part of a building including garden, grounds and outhouses, if any, pertaining to such building or part of a building etc.

[F. No. 6/6/2006-FT(ST)]

RAM NIWAS, Assistant Director

नागर विमानन मंत्रालय

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1363.—इस मंत्रालय के दिनांक 16.12.2014 की अधिसूचना सं. एवी.24011/2/2013-एएआई के क्रम में, केंद्र सरकार एतद्वारा श्री अनुज अगरवाल को सदस्य (मानव संसाधन), भारतीय विमानपत्तन प्राधिकरण के पद पर उनके कार्यकाल को वेतनमान रूपये 1,80,000-3,40,000/- (संशोधित) में, 30.11.2019 से आगे 28.02.2023 तक, अर्थात् उनकी सेवानिवृत्ति की तारीख, अथवा आगामी आदेशों तक, जो पहले हो, तक बढ़ाया जाता है।

[फा. सं. एवी.-24011/6/2018-एएआई-मोका]

पी. जे. थॉमस, अवर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 24th July, 2019

S.O. 1363.—In continuation of this Ministry's Notification No.AV.24011/2/2013-AAI dated 16.12.2014, the Central Government hereby extends the tenure of Shri Anuj Aggarwal as Member (Human Resource), Airports Authority of India in the scale of pay of Rs.1,80,000-3,40,000/- (revised) beyond 30.11.2019 till 28.02.2023, i.e. the date of his superannuation, or until further orders, whichever is earlier.

[F. No. AV-24011/6/2018-AAI-MOCA]

P. J. THOMAS, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 30 जुलाई, 2019

का.आ. 1364.—केंद्रीय सरकार, पेट्रोलियम एवं खनिज पाइपलाइन की धारा 2 खंड (ए) के अनुसरण में (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50), उक्त अधिनियम के अधीन पश्चिम बंगाल राज्य के अंतर्गत नुमालीगढ़ रिफाइनरी लिमिटेड की भारत बांग्लादेश मैट्री पाइपलाइन (IBFPL) का भारतीय हिस्से का 5.16 किमी. सिलीगुड़ी मार्केटिंग टर्मिनल से अंतर्राष्ट्रीय बोर्डर तक बिछाने हेतु नीचे दी गयी सारणी में वर्णित प्राधिकारी के उक्त अधिनियम के अंतर्गत सक्षम प्राधिकारी के कार्यों का निर्वहन करने के लिए एतद्वारा प्राधिकृत करती है, अर्थात् :

प्राधिकारी का पदनाम

अधिकार का क्षेत्र

अतिरिक्त जिला मजिस्ट्रेट (LA) दार्जिलिंग

पश्चिम बंगाल राज्य के अंतर्गत

[फा. सं. आर-11020 (23)/1/2019-ओआर-I)/ई-28563]

शान्तनु धर, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 30th July, 2019

S.O. 1364.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes the Authority mentioned in the table below to perform the functions of Competent Authority in the state of West Bengal under the said Act for laying 5.16 Km. of India Bangladesh Friendship Pipeline (IBFPL) of Numaligarh Refinery Ltd. from Siliguri Marketing Terminal to International Border, namely :

Designation of Authority	Area of Jurisdiction
Additional District Magistrate (LA) Darjeeling, West Bengal	Within State of West Bengal
[F. No. R-11020(23)/1/2019-OR-I/E-28563]	
SANTANU DHAR, Under Secy.	

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 22 जुलाई, 2019

का.आ. 1365.—ओद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल बैंक आफ इंडिया के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में ओद्योगिक अधिकरण, अहमदनगर के पंचाट (संदर्भ सं. 15/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/04/2015-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 22nd July, 2019

S.O. 1365.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2015) of the *Industrial Tribunal*, Ahmednagar as shown in the Annexure, in the industrial dispute between the management of Central Bank of India, and their workmen, received by the Central Government on 22.07.2019.

[No. L-12012/04/2015-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL AT AHMEDNAGAR BEFORE SHRI B.R. GUPTA, PRESIDING OFFICER

Reference (IT) No.15 of 2015

(CNR No. MHIC160008152015)

Between :

1. Central Bank of India,
Central Office, Chandramukhi,
Nariman Point, Mumbai-400 021.
2. The Regional Manager,
Regional Office, 5/5/72,
Usmanpura, Aurangabad.
3. The Regional Manager,
Central Bank of India,
M.I.D.C. Nagapur, Ahmednagar
4. Branch Manager,
Central Bank of India,
Branch at Shrigonda,
Tal.: Shrigonda, Dist.Ahmednagar.

...First Party

And

Abasaheb Annasaheb Kale
 At: Baburdi, Post : Madhewadgaon,
 Tal.: Shrigonda, Dist.: Ahmednagar

...Second Party

Reference U/s-10(1) (d) of Industrial Disputes Act,1947.

Appearance : Smt. T.T.Kakad, Advocate for First Party
 Shri A.V.Patil, Advocate Second Party

AWARD

(Delivered on 04-07-2019)

1. The present Reference is referred by Central Government by letter dated 24-7-2015 to adjudicate the dispute between Central Bank of India & others (the first party, for short) and Abasaheb Annasaheb Kale (the second party, for short) for adjudication on the issue,

“Whether the action of the management of Regional Manager, Central Bank of India, Regional Office, Ahmednagar by not regularizing the services of Shri Abasaheb Annasaheb Kale is justified ? If not, to what relief the workman Shri Abasaheb Annasaheb Kale is entitled to ?”.

2. Second party filed Statement of Claim vide Exh.U-2. As per his contention he was appointed by first party no.4 as safai kamgar on 3-5-2004. He was posted to work as Safai Kamgar at Shrigonda. There he worked from 3-5-2004 to 31-8-2010 and thereafter from 6-9-2010 to 31-5-2010 he worked at Pimpalgaon Pisa Branch, Tal. Shrigonda. During said period first party no.4 bank was making payment at the rate of Rs. Rs .50/- per day to him. He also contended that inspite of posting as safai kamagar he was doing clerical work also in the bank in addition to sweeping work of premises of the bank. He was also performing work on holidays. He also contended that his appointment was made on vacant post of sweeper. Previously on said post one Chandrakant Pokale was working however he was promoted and therefore on his place second party worker was appointed. As per his contention first party was not making payment of salary to him as per Minimum Wages Act as well as per circulars issued by first party regarding payment of permanent employee. Moreover, he had continuously worked for more than 240 days in each year but inspite of that he was not regularized in service. Moreover from 1-6-2011 first party not provided any work to second party inspite of his several request and representation from time to time. He also contended that the work which he was doing is of permanent nature. Moreover said post is vacant. He is also having required qualification for said post. Even first party had also made advertisement for fulfillment of said post in the year 2013 but subsequently without any reason cancelled said recruitment process. He also contended that subsequently first party appointed some other persons as temporary safai kamagar and they were given promotion in sub staff category though they were juniors from him. Accordingly as per him said act of first party is not legal. Accordingly, he requested that directions may be given to first party to regularize second party from date of his first appointment i.e. 3-9-2004 and also pay him difference of wages and other consequential relief attached with regularization at par with permanent employees.

3. First party appeared and resisted the claim by filing their reply and W.S. at Exh.C-3. They denied all the contention of second party regarding his appointment in the post of sweeper and subsequently discontinuation from service. They also denied his contention that they used to take work of clerical nature from first party in addition to sweeping. They denied contention that second party was appointed on 3-5-2004 and worked till 31-8-2010 and thereafter from 6-9-2010 to 31-5-2011 they also denied that in every year second party had worked for more than 240 days and entitled for regularization. As per their contention they given work to second party as per availability of work on daily wages and made payment of the same as per rates of daily wager prevailing at that time. They also contended that due to in-availability of work first party discontinued second party from service from June 2011. Subsequently, first party no.4 had given advertisement for recruitment on 11-2-2013. However subsequently Ahmednagar regional office shifted to Aurangabad regional office. Due to shifting and some managerial decisions said advertisement of recruitment was cancelled. Therefore there is no substance in the contention of second party that deliberately first party cancelled recruitment process of 2013. Accordingly, they contended that second party has not acquired the legal right for continuation in service or to regularize him in the post of sweeper. Accordingly, they requested to reject the claim of second party.

4. On the basis of pleading my predecessor framed issues below Exh.O-7 after hearing argument of Shri Patil Advocate for second party and Smt. Kakad Advocate for first party I have recorded my findings against those issues for reason given below.

Sr. No.	ISSUES	FINDINGS
1.	Whether the 2 nd party workman is entitled to permanency, with benefits as claimed ?	No.
2.	Whether relief /Award ?	As per final Award.

REASONS

ISSUE No. 1 :

5. In this respect second party examined himself on oath vide Exh.U-16 and deposed as per contentions made in his statement of claim. He also produced some documentary evidence with list Exh.U-4, U-5, U-15 & U-18. Documents are application of second party for appointment in recruitment process in the year 2013 and different circulars of first party and copy of recovery register in the handwriting of second party and some vouchers.

6. In cross examination he given admission that first party bank is nationalized bank. He also admit that in the year 2004 said bank had not given any advertisement to fill up post of sweeper. He also admit that he had neither given application for appointment in the bank, nor there is any written order to appoint him in the post of sweeper. Even there is no agreement with bank for his appointment. Bank also not given any appointment letter to him. He admit that his name was not appearing in attendance register. Even he was not authorized to sign on any record of bank. He admit that bank used to give him work whenever work available with bank. He given admission that on 25-1-2013 first party bank had given advertisement for appointment of part time sweeper. However, subsequently Ahmednagar regional office shifted to Aurangabad and therefore said advertisement cancelled.

7. On the other hand in defence first party examined Bajrang Shinde, branch manager at Shrigonda vide Exh. C-19 and Santosh Kumar branch manager, Pimpalgaon Pisa Tal. Shrigonda vide Exh. C-25. They also deposed as per contentions made in their W.S.

8. As per deposition of first witness i.e. Bajrang Shinde he is working at Shrigonda branch from June 2018 and therefore he has know personal knowledge regarding incident prior to 2018. As per him on the basis of record he is having said knowledge. He also deposed that he has not perused record regarding work of second party for the period 3-5-2004 to 31-8-2010. Previous record is not available in the bank. He also given admission that during period 2004 to 2010 second party to work at Shrigonda branch and from 6-9-2010 to 31-5-2011 he had worked at Pimpagoan Pisa Branch in their bank.

9. Second witness i.e. Santosh Kumar also deposed in same manner. As per his deposition he is working at Pimpalgaon Pisa from 5-5-2017. He also deposed that in the bank there is no record regarding work of second party. He also deposed that he do not know whether second party worked in their bank from 6-9-2010 to 31-5-2018.

10. From evidence led by both the parties and admissions given by them in their cross-examination it appears that second party had worked in first party bank at Shrigonda and Pimpalgaon Pisa as sweeper during disputed period i.e. 3-5-2004 to 31-8-2010 and then 6-9-2010 to 31-5-2011. From admission of second party it also appears that bank was provided him work as per availability of work with bank and subsequently from June 2011 he discontinued from service. It appears that after four years of discontinuance second party raised Industrial Dispute regarding his regularization and therefore present reference sent by government for adjudication.

11. From evidence of second party it appears that his appointment as sweeper was not made on vacant post by due advertisement and by following due process of law. Even there is no appointment order in writing. Admittedly, first party is nationalized bank and therefore, he has no legal right to fill up the post arbitrary. Moreover, being bank institution first party has to follow prescribed procedure of recruitment process and also adhere to provisions of constitution under article 14 & 16. Moreover in government service back door entry is not allowed.

12. In this respect at the time of argument counsel of first party also cited one Constitution bench judgment of Hon'ble Apex Court in the case of *State of Karnataka & Ors. Vs. Umadevi & Ors. (Civil Appeal Nos. 3595-3612/1999 decided on 10-4-2006)* wherein in para no. 34 it is held that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article-14 or in ordering the overlooking of the need of comply with the requirements of Article-14 read with Article-16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an

engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right.

13. On the other hand Shri Patil Advocate for second party argued that citations given by counsel of first party is not helpful in present case. As per him in subsequent judgment of Hon'ble Supreme Court the ratio laid down in Uma Devi's case by Constitution bench is diluted. As per his submission constitution bench judgment is mainly on the law regarding articles 14 & 16 of Constitution. However, provisions of labour law were directly not involved in said case. Moreover, as per said judgment also only illegal appointment were prohibited. However, irregular appointment were not held illegal. As per his submission in present case second party had worked continuously for long period but inspite of them he is not confirmed in service. As per his submission as per provisions of Labour Laws and Model Standing Orders second party should have been confirmed in service. He also pointed out cross-examination of bank witness and submitted that bank tried to suppress some material facts regarding work of second party. As per him work of sweeper is of permanent nature but bank without making regular appointment getting done said work through daily wager and therefore, said act of bank amounts to unfair labour practice. As per him on the basis of admitted facts brought in evidence second party should be confirmed in service. He also drawn my attention towards circular of bank filed on record.

14. On law point he also cited some judgment of Hon'ble Apex Court i.e.

1. ***O.N.G.C. Ltd., Vs. Petroleum Coal Labour Union and others (2015 (2) Bom.LC, 239 (SC))***
2. ***U.P. State Electricity Board Vs. Pooran Chandra Pandey and others (2008 (116) FLR,1172 (SC)).***

15. In first citation workers were firstly working in corporation through contractors, subsequently through the Co-operative Society, and then memorandum of appointment issued to each one of the concerned workmen in the year 1988 and thereafter, continuing them in their services in the posts by the Corporation without following proper procedure. On that ground it is held that on the basis of those irregularity appointment of those workers cannot be termed up as illegal. Moreover, it is also held that those appointment were not objected to by any other authority of the corporation at any point of time and they continued for years together as per appointment order. Considering said aspect appeal of O.N.G. Corporation was dismissed.

16. In second citation it is held that decision of Apex Court in Uma Devi's case cannot be applied to a case where regularization has been sought for in pursuance of article 14 of Constitution. Article 14 would be violated on the ground of arbitrariness and unreasonableness.

17. In present case in my hand appointment of second party is not made by following due process of law. Even there is no appointment of second party in writing. From evidence it appears that without any appointment letter second party worked in the bank as sweeper. From evidence it also appears that there was no recruitment process for appointment of sweeper in the bank. Even there was no such advertisement to recruit sweepers. From evidence it appears that second party appointed by oral order to perform work of sweeper. From evidence it also appears that he was doing some other workers in the bank as per say of bank manager. Therefore, his appointment cannot be termed as legal appointment as per rules and regulations of bank.

18. Admittedly first party bank is nationalized bank and he has to follow legal procedure and rules and regulation regarding recruitment of employee. He has no right to make appointment of employee arbitrarily. Moreover, only on the basis that second party worked in the bank for some period as sweeper on daily wages he cannot get legal right to regularize in service. First party is bound to follow the guideline judgment of Hon'ble Constitution bench of Apex Court in Uma Devi's case cited (Supra) any appointment contrary to procedure laid down in said judgment is illegal. Moreover, no worker could be regularized whose entry in service is back door entry.

19. In present case appointment of second party appears back door entry without following any procedure of recruitment. Moreover, there is no evidence that sanctioned post of Sweeper is vacant in the bank. Therefore, second party cannot get any legal right to regularize in service. The circular filed on record are also not helpful to second party. In those circular also there is no guideline to regularize the part time daily wager in service on completion of certain period. As per those circular, part time daily wage worker are given some relaxation mainly on age limit for making application in regular recruitment process.

20. The citations given by counsel of second party are also not helpful to him in present case. In those cases the worker had worked in the corporation for long period firstly through contractor then through society and subsequently there was agreement with Labour Union. In view of said fact and agreement with union management had absorbed them

by making specific appointment orders and continuing them for long time. In that context it is held that minor irregularity in appointment is not fettle and on that ground appeal was dismissed. In second citation also it is held that Uma Devi's case is not applicable in the case when provisions of article 14 are not violated. However, in present case if directions to regularize second party is given it will amount to violations of provisions of article 14 of Constitution.

21. As per articles 14 and 16 of Constitution their shall be equality before law in respect of public appointment and State has to give equal opportunity to all in respect of public appointment. In view of that directions given in Uma Devi's case that public appointment should be made by giving public advertisement and following recruitment process as per rules and regulation framed by government. In present case no such procedure is followed and therefore, I hold that no relief of regularization of second party can be given to him. Hence, I answer issue no.1 in negative and proceed to pass the following Award:-

AWARD

1. The action of management of Central Bank, not regularizing the services of second party Abasaheb Annasaheb Kale is legal and valid.
2. The request of second party to regularize him in service with consequential benefits and difference of wages cannot be accepted.
3. Reference is answered accordingly.
4. Award be drawn accordingly and sent to Government of India/ Bharat Sarkar, Ministry of Labour/ Shram Mantralaya, New Delhi for publication.

B. R. GUPTA, Presiding Officer

Date: 04.07.2019

Sd/-
Secretary,

Industrial Tribunal, Ahmednagar

Argued on	: 26-06-2019
Judgment dictated on	: 04-07-2019
Judgment transcribed on	: 05-07-2019
Judgment checked & signed on	: 05-07-2019

नई दिल्ली, 22 जुलाई, 2019

का.आ. 1366.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक आफ इंडिया के प्रबंधतत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदनगर के पंचाट (संदर्भ सं. 14/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/05/2015-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 22nd July, 2019

S.O. 1366.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2015) of the *Industrial Tribunal, Ahmednagar* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India, and their workmen, received by the Central Government on 22.07.2019.

[No. L-12012/05/2015-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE**IN THE INDUSTRIAL TRIBUNAL AT AHMEDNAGAR BEFORE SHRI B.R. GUPTA, PRESIDING OFFICER****Reference (IT) No.14 of 2015****(CNR No.MHIC160008072015)****Between:**

1. Central Bank of India,
Central Office, Chandramukhi,
Nariman Point, Mumbai-400 021.

2. The Regional Manager,
Regional Office, 5/5/72,
Usmanpura, Aurangabad.

3. The Regional Manager,
Central Bank of India,
M.I.D.C. Nagapur, Ahmednagar

4. Branch Manager,
Central Bank of India,
Branch at Madhewadgaon
Tal.: Shrigonda, Dist.Ahmednagar. .. First Party

And

- Bhishekkumar Ambar Patil,
At Po.: Madhewadgaon,
Tal.: Shrigonda, Dist.: Ahmednagar .. Second Party

Reference U/s-10(1) (d) of Industrial Disputes Act,1947.

Appearance : Smt. T.T.Kakad, Advocate for First Party
Shri A.V.Patil, Advocate Second Party

AWARD**(Delivered on 04-07-2019)**

1. The present Reference is referred by Central Government by letter dated 9-3-2015 to adjudicate the dispute between Central Bank of India & others (the first party, for short) and Bhishekkumar Ambar Patil (the second party, for short) for adjudication on the issue,

“Whether the action of the management of Regional Manager, Central Bank of India, Regional Office, Ahmednagar by not regularizing the services of Shri Bhishekkumar Ambar Patil is justified ? If not, to what relief the workman Shri Bhishekkumar Ambar Patil is entitled to ?”.

2. Second party filed Statement of Claim vide Exh.U-2. As per his contention he was appointed by first party no.4 as part time safai kamgar on 8-1-2007. He was posted to work as Safai Kamgar at Madhewadgaon branch, Tal. Shrigonda. There he worked from 8-1-2007 to 30-9-2008 and thereafter from 7-7-2010 to 19-7-2011 during said period first party no.4 bank was making payment at the rate of Rs. Rs .40/- per day to him. He also contended that inspite of posting as part time safai kamagar he was doing clerical work also in the bank in addition to sweeping work of premises of the bank. He was also performing work on holidays. He also contended that his appointment was made on vacant post of sweeper. Previously on said post one Kothambire was working however he was promoted and therefore on his place second party worker was appointed. As per his contention first party was not making payment of salary to him as per Minimum Wages Act as well as per circulars issued by first party regarding payment of permanent employee. Moreover, he had continuously worked for more than 190 days in each year but inspite of that he was not regularized in service. Moreover from 20-7-2011 first party not provided any work to second party inspite of his several request and representation from time to time. He also contended that the work which was doing is of permanent nature. Moreover

said post is vacant. He is also having required qualification for said post. Even first party had also made advertisement for fulfillment of said post in the year 2013 but subsequently without any reason cancelled said recruitment process. He also contended that subsequently first party appointed some other persons as temporary safai kamagar and they were given promotion in sub staff category though they were juniors from him. Accordingly as per him said act of first party is not legal. Accordingly, he requested that directions may be given to first party to regularize second party from date of his first appointment i.e. 8-1-2007 and also pay him difference of wages and other consequential relief attached with regularization at par with permanent employees.

3. First party appeared and resisted the claim by filing their reply and W.S. at Exh.C-3. They denied all the contention of second party regarding his appointment in the post of part time sweeper and subsequently discontinuation from service. They also denied his contention that they used to take work of clerical nature from first party in addition to sweeping. They denied contention that second party was appointed on 8-1-2007 and worked till 30-9-2008 and thereafter from 7-7-2010 to 19-7-2011 they also denied that in every year second party had worked for more than 190 days and entitled for regularization. As per their contention they given work to second party as per availability of work on daily wages and made payment of the same as per rates of daily wager prevailing at that time. They also contended that due to in-availability of work first party discontinued second party from service from 20-7-2011. Subsequently, first party no.4 had given advertisement for recruitment on 11-2-2013. However subsequently Ahmednagar regional office shifted to Aurangabad regional office. Due to shifting and some managerial decisions said advertisement of recruitment was cancelled. Therefore there is no substance in the contention of second party that deliberately first party cancelled recruitment process of 2013. Accordingly, they contended that second party has not acquired the legal right for continuation in service or to regularize him in the post of sweeper. Accordingly, they requested to reject the claim of second party.

4. On the basis of pleading my predecessor framed issues below Exh.O-7 after hearing argument of Shri Patil Advocate for second party and Smt. Kakad Advocate for first party I have recorded my findings against those issues for reason given below.

Sr. No.	ISSUES	FINDINGS
1.	Whether the 2 nd party workman is entitled to permanency/regularization in service with benefits as claimed ?	No.
2.	Whether relief /Award ?	As per final Award.

REASONS

ISSUE No. 1 :

5. In this respect second party examined himself on oath vide Exh.U-16 and deposed as per contentions made in his statement of claim. He also produced some documentary evidence with list Exh.U-5, U-6 and U-15. Documents are application of second party for appointment in recruitment process in the year 2013 and different circulars of first party and some vouchers.

6. In cross examination he given admission that first party bank is nationalized bank. He also admit that in the year 2007 said bank had not given any advertisement to fill up post of part time sweeper. He also admit that he had neither given application for appointment in the bank, nor there is any written order to appoint him in the post of sweeper. Even there is no agreement with bank for his appointment. Bank also not given any appointment letter to him. He admit that his name was not appearing in attendance register. Even he was not authorized to sign on any record of bank. He admit that bank used to give him work whenever work available with bank. He given admission that on 25-1-2013 first party bank had given advertisement for appointment of part time sweeper. However, subsequently Ahmednagar regional office shifted to Aurangabad and therefore said advertisement cancelled.

7. On the other hand in defence first party examined Amit Ghodeswar, branch manager at Madhevadgaon vide Exh. C-21. He also deposed as per contentions made in their W.S. As per his deposition he is working at Madhevadgaon branch from 24-8-2016 and therefore he has know personal knowledge regarding incident prior to 2016. As per him on the basis of record he is having said knowledge. He also deposed that in their bank record available from 2011 only. Previous record is not available in the bank. He also deposed that in absence of record he cannot tell whether second party was working in the bank prior to 2011. However at the same time he stated that he learnt from their Daftary that in the year 2007-2008 second party was working in the bank on daily wages. He also admit that during said period second party was also performing work of providing tea, doing xerox work and also accompanying in the recovery proceeding. He also given admission that during period 8-1-2007 to 30-9-2008 and 7-7-2010 to 19-7-2011 second party had worked in their bank. As per his deposition except criteria of continuous work of 45 days second party fulfilled other criteria of work as per bank circular.

8. From evidence led by both the parties and admissions given by them in their cross-examination it appears that second party had worked in first party bank at Madhevadgaon branch as part time sweeper during disputed period i.e. 8-1-2007 to 30-9-2008 and then 7-7-2010 to 19-7-2011. From admission of second party it also appears that bank had provided him work as per availability of work with bank and subsequently from 20-7-2011 he discontinued from service. It appears that after four years of discontinuance second party raised Industrial Dispute regarding his regularization and therefore present reference sent by government for adjudication.

9. From evidence of second party it appears that his appointment as part time sweeper was not made on vacant post by due advertisement and by following due process of law. Even there is no appointment order in writing. Admittedly, first party is nationalized bank and therefore, he has no legal right to fill up the post arbitrary. Moreover, being bank institution first party has to follow prescribed procedure of recruitment process and also adhere to provisions of constitution under article 14 & 16. Moreover in government service back door entry is not allowed.

10. In this respect at the time of argument counsel of first party also cited one Constitution bench judgment of Hon'ble Apex Court in the case of *State of Karnataka & Ors. Vs. Umadevi & Ors. (Civil Appeal Nos. 3595-3612/1999 decided on 10-4-2006)* wherein in para no. 34 it is held that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article-14 or in ordering the overlooking of the need of comply with the requirements of Article-14 read with Article-16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right.

11. On the other hand Shri Patil Advocate for second party argued that cations given by counsel of first party is not helpful in present case. As per him in subsequent judgment of Hon'ble Supreme Court the ratio laid down in Uma Devi's case by Constitution bench is diluted. As per his submission constitution bench judgment is mainly on the law regarding articles 14 & 16 of Constitution. However, provisions of labour law were directly not involved in said case. Moreover, as per said judgment also only illegal appointment were prohibited. However, irregular appointment were not held illegal. As per his submission in present case second party had worked continuously for long period but inspite of them he is not confirmed in service. As per his submission as per provisions of Labour Laws and Model Standing Orders second party should have been confirmed in service. He also pointed out cross-examination of bank witness and submitted that bank tried to suppress some material facts regarding work of second party. He also argued that as per bank circular if temporary worker worked for more than 60 days he may be absorbed in service. As per him work of sweeper is of permanent nature but bank without making regular appointment getting done said work through daily wager and therefore, said act of bank amounts to unfair labour practice. As per him on the basis of admitted facts brought in evidence second party should be confirmed in service. He also drawn my attention towards circular of bank filed on record.

12. On law point he also cited some judgment of Hon'ble Apex Court i.e.

1. *O.N.G.C. Ltd., Vs. Petroleum Coal Labour Union and others (2015 (2) Bom.LC, 239 (SC))*
2. *U.P. State Electricity Board Vs. Pooran Chandra Pandey and others (2008 (116) FLR,1172 (SC)).*

13. In first citation workers were firstly working in corporation through contractors, subsequently through the Co-operative Society, and then memorandum of appointment issued to each one of the concerned workmen in the year 1988 and thereafter, continuing them in their services in the posts by the Corporation without following proper procedure. On that ground it is held that on the basis of those irregularity appointment of those workers cannot be termed up as illegal. Moreover, it is also held that those appointment were not objected to by any other authority of the corporation at any point of time and they continued for years together as per appointment order. Considering said aspect appeal of O.N.G. Corporation was dismissed.

14. In second citation it is held that decision of Apex Court in Uma Devi's case cannot be applied to a case where regularization has been sought for in pursuance of article 14 of Constitution. Article 14 would be violated on the ground of arbitrariness and unreasonableness.

15. In present case in my hand appointment of second party is not made by following due process of law. Even there is no appointment of second party in writing. From evidence it appears that without any appointment letter second party worked in the bank as part time sweeper. From evidence it also appears that there was no recruitment process for appointment of part time sweeper in the bank. Even there was no such advertisement to recruit sweepers. From evidence it appears that second party appointed by oral order to perform work of part time sweeper. From evidence it also appears that he was doing some other workers in the bank as per say of bank manager. Therefore, his appointment cannot be termed as legal appointment as per rules and regulations of bank.

16. Admittedly first party bank is nationalized bank and he has to follow legal procedure and rules and regulation regarding recruitment of employee. He has no right to make appointment of employee arbitrarily. Moreover, only on the basis that second party worked in the bank for some period as part time sweeper on daily wages he cannot get legal right to regularize in service. First party is bound to follow the guideline judgment of Hon'ble Constitution bench of Apex Court in Uma Devi's case cited (Supra) any appointment contrary to procedure laid down in said judgment is illegal. Moreover, no worker could be regularized whose entry in service is back door entry.

17. In present case appointment of second party appears back door entry without following any procedure of recruitment. Moreover, there is no evidence that sanctioned post of Sweeper is vacant in the bank. Therefore, second party cannot get any legal right to regularize in service. The circular filed on record are also not helpful to second party. In those circular also there is no guideline to regularize the part time daily wager in service on completion of certain period. As per those circular, part time worker are given some relaxation mainly on age limit for making application in regular recruitment process.

18. The citations given by counsel of second party are also not helpful to him in present case. In those cases the worker had worked in the corporation for long period firstly through contractor then through society and subsequently there was agreement with Labour Union. In view of said fact and agreement with union management had absorbed them by making specific appointment orders and continuing them for long time. In that context it is held that minor irregularity in appointment is not fettle and on that ground appeal was dismissed. In second citation also it is held that Uma Devi's case is not applicable in the case when provisions of article 14 are not violated. However, in present case if directions to regularize second party is given it will amount to violations of provisions of article 14 of Constitution.

19. As per articles 14 and 16 of Constitution their shall be equality before law in respect of public appointment and State has to give equal opportunity to all in respect of public appointment. In view of that directions given in Uma Devi's case that public appointment should be made by giving public advertisement and following recruitment process as per rules and regulation framed by government. In present case no such procedure is followed and therefore, I hold that no relief of regularization of second party can be given to him. Hence, I answer issue no.1 in negative and proceed to pass the following Award:-

AWARD

1. The action of management of Central Bank, not regularizing the services of second party Bhishekkumar Ambar Patil is legal and valid.
2. The request of second party to regularize him in service with consequential benefits and difference of wages cannot be accepted.
3. Reference is answered accordingly.
4. Award be drawn accordingly and sent to Government of India/ Bharat Sarkar, Ministry of Labour/ Shram Mantralaya, New Delhi for publication.

B. R. GUPTA, Presiding Officer

Date: 04.07.2019

Sd/-

Secretary,

Industrial Tribunal, Ahmednagar.

Argued on	: 26-06-2019
Judgment dictated on	: 04-07-2019
Judgment transcribed on	: 05-07-2019
Judgment checked & signed on	: 05-07-2019

नई दिल्ली, 22 जुलाई, 2019

का.आ. 1367.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक आफ इंडिया के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 774/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/92/2003-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 22nd July, 2019

S.O. 1367.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 774/2005) of the Cent. Govt. *Industrial Tribunal-cum-Labour Court* No 2, Chandigarh as shown in the Annexure, in the Industrial dispute between the management of Central Bank of India, and their workmen, received by the Central Government on 22.07.2019.

[No. L-12012/92/2003-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No.774/2005

Registered on:-05.09.2005

Sh. Sukh Kanwal Singh S/o Sh. Harbans Singh, C/o Sh. Tek Chand Sharma,
25-Sant Nagar, Civil Lines, Ludhiana.

...Workman

Versus

The Regional Manager, Central Bank of India, 427-A, Regional Office,
Ghuman Mandi, Ludhiana 141001.

... Management

AWARD

Passed on:-10.06.2019

Central Government vide Notification No. L-12012/92/2003-IR(B-II) Dated 31.07.2003, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Central Bank of India in dismissing the services of Sh. Sukh Kanwal Singh, S/o Sh. Harbans Singh, Ex-Clerk/Cashier w.e.f. 17.05.1993 is legal and just? If not, to what relief the concerned workman is entitled and from which date?”

- Both the parties were served with notices. The workman/claimant filed his statement of claim with the averment that he was an employee of the respondent-bank at Branch Office Salem Tabri, Ludhiana and he was suspended vide order dated 02.08.1989 by the Regional Manager. It is also stated that at the time of illegal suspension without specifying any alleged misconduct for illegal suspension against the provisions contained in Para 18(20) of Desai Award. The charge-sheet was served after 2 years from the date of suspension vide order dated 24.07.1991 under the signature of Regional Manager, disciplinary-authority. Charge-sheet did not contain the statement of imputation of conduct, list of witnesses, list of documents to be relied upon. Charge-sheet was issued at belated time while alleged transaction was concerned with November 1988 to July 1989 in a discriminatory matter. The Branch Manager get an F.I.R. lodged with Sadar Police Station, Ludhiana under relevant section falsely implicate the petition. The respondent-bank illegally appointed I.S. Sodhi, Manager, as enquiry officer without waiting of the workman for the charge-sheet and order was not supplied to the workman according to the rules and regulations. Petitioner/workman filed Civil Suit for mandatory injunction against the departmental enquiry and got order of status quo in the matter of enquiry on 15.06.1992 in the presence of the counsel of the parties. Consequently, respondent-management in order to manipulate disobedience changed the enquiry officer vide order dated 02.11.1991 and appointed Sh. T.S. Ahluwalia as enquiry officer. ultimately

workman was forced to participate in the enquiry under protest without any defence representative or lawyer as the same was not allowed by the enquiry officer despite the request of the workman. During the course of enquiry, bank did not produce the material witnesses and the relevant documents in the enquiry and proceedings were not held in the prescribed procedure of law and continued the enquiry proceedings in ignoring the mandatory procedure of the Desai Award read with Bipartite Settlement. Ultimately, the disciplinary authority acted vindictively and with undue haste and extreme penalty of dismissal was imposed upon the workman vide order dated 17.05.1993. The disciplinary authority did not apply its mind to the facts of the case particularly when the defence opportunity was not provided and enquiry conducted in an illegal manner. The criminal case was decided by the Judicial Magistrate First Class, Ludhiana, vide judgment dated 20.09.1999, the petitioner was acquitted. The order of termination dated 11.05.1993 is illegal, wrong, against the rules, non-speaking and the same was issued with a short notice of about 3 days without copies of enquiry and findings and opportunity of personal hearing was denied by the management. The workman has not been able to get alternative employment efforts and entitled to be reinstated with full back wages and other consequential benefits of seniority, promotion etc.

2. Respondent-management filed its written statement, alleging therein that petitioner/workman has not made any specific averments, if any, on the part of the enquiry officer or prejudice, if any, suffered by him which could be examined by the Hon'ble Tribunal. Neither there is any averment that any of the witnesses produced by the management was not permitted to be cross-examined nor there is any averment that any witness taken during enquiry refused to be recorded by the inquiry officer. The order of suspension was legal which is followed by the dismissal after the due enquiry reports submitted by the enquiry officer. in fact, management was watching the outcome of the police case but no charge-sheet was submitted by the police resulting bank to submit charge-sheet dated 24.07.1991 appointing I.S. Sodhi, Branch Manager as enquiry officer. Ultimately, enquiry officer after giving full opportunity of being heard to the workman and furnish his enquiry report dated 03.08.1992. Regional Manager-cum-Disciplinary Authority invited the workman for personal hearing on 14.05.1993. Charge-sheeted employee was duly submitted charge-sheet along with 11 documents and list of witnesses. After that enquiry officer provided full opportunity to the workman to produce documents in his defence. The fraud was related to the transaction of November 1988 to July 1989 as charge-sheeted employee withdrew money from the inoperative accounts while officiating as teller in the branch. The charge-sheeted employee defrauding the bank by forging the signatures of various accounts-holders either dead or alive made payment to himself by fabricating vouchers and by manipulating entries in the records of the bank. The petitioner/workman actually participated in the enquiry whereby he has not only examined by the bank witness he has also allowed to be represented by the defence representative. Enquiry proceedings were held in accordance with the Bipartite Settlement for workman and evidence was recorded as per procedure and every opportunity was provided for cross-examination of the witnesses which was availed by him as per procedure. After the conclusion of the enquiry and submission of the enquiry report, claimant was served upon memo for personal appearance on 14.05.1993 but he did not appear on the said date due to illness. Disciplinary authority provided another chance on 17.05.1993 but he was not appeared before the authority. Ultimately, disciplinary authority passed final order which was sent to the delinquent employee through registered post and by hand on 17.05.1993 at his last address. Acquittal of the petitioner/workman by the criminal Court bears no effect on merit as he has acquitted by providing a benefit of doubt. It is therefore prayed that workman does not deserve to be granted any relief and reference may kindly be answered in negative in the interest of justice.

3. Tribunal afforded an opportunity to the parties for leading evidence. Workman has submitted his affidavit Ex.WW1 along with 4 documents while management has submitted affidavit of sh. Anil Kumar Gupta, Manager, Central Bank of India.

4. It is a matter of record that claimant/workman was dismissed from service on 17.05.1993 in pursuance to the enquiry conducted by the respondent-bank. Perusal of the file shows that this Tribunal vide order dated 11.02.2016 has held that the departmental enquiry was conducted in fair and proper manner after giving proper opportunity to the workman to defend himself as such, the enquiry was not conducted against the principle of natural justice.

5. During the course of pendency of claim petition, workman along with learned counsel restrained from appearing before the Tribunal, the management forcing the Tribunal to proceed with the case in the absence of the workman as well as his counsel.

6. Ultimately giving reasonable opportunity for the workman and his counsel to argue his case on merit about the quantum of punishment, learned counsel for the management is heard by the Tribunal in the absence of the workman and his counsel.

7. Learned counsel for the management argued that action of the disciplinary authority in passing the dismissal order is in commensurate to the gravity of misconduct proved against the workman. It is also submitted by the learned counsel for the management-bank that role of the Court in the matter of departmental proceedings is very limited and the Court cannot substitute its own views or finding arrived on the basis of the evidence available on record. In the matter of imposition of sentence, the scope for interference by the Court is very limited to exceptional cases. The punishment imposed by the disciplinary authority cannot be subjected to judicial review. In this connection, learned counsel of the

bank has drawn my attention towards the judgment of the Hon'ble apex court in the case of S.R. Tiwari Versus Union of India (2013(7) Scale Page 417) and in the case of Depot Manager, APSRTC Vs. Raghudha Shiv Shankar Prasad 2007(1) RSJ Page 331 and submitted that the workman is not entitled to any leniency.

8. There is no dispute that Section 11-A of the Act empowers this Tribunal to interfere with the quantum of punishment in appropriate cases (see decision of Hon'ble Apex Court in the case of Pepsu Road Transport Corporation Versus Rawel Singh, 2008 AIR (SCW) 2099; of Punjab & Haryana High Court in the case/s of Punjab National Bank Vs. The Presiding Officer, CGIT & another 2012(2) SLR 631; Harnek Singh Versus State of Haryana & others 2010(3) SLR 276 and Joginder Lal Versus The Presiding Officer, Labour Court, Ambala & another 1996 SCT 436). It is fairly settled that discretion is to be exercised judiciously in such cases where order of punishment is quite harsh & disproportionate to the gravity of misconduct of the official concerned on the basis of evidence on record.

9. Perusal of enquiry report, it is crystal clear that claimant/workman was served with the charge-sheet dated 24.07.1991 imputing 7 charges regarding the withdrawal of the amount which runs as follow:-

“While working at Salem Tabri, Ludhiana branch from 2.5.1986 to 3.8.1989, Mr. Sukh Kanwal Singh has committed following lapses:-

1. *While officiating as Teller on 3.7.89, Mr. Sukh Kanwal Singh, Clerk(U/S) made the payment to himself of a withdrawal for Rs.300/- from an inoperative account No.166 in the name of Mr. Jawand Singh by forging the signature of the account holder. The withdrawal slip was also filled in by Mr. Sukh Kanwal Singh. Thus he defrauded the Bank with Rs.300/-.*
2. *While officiating as Teller, Mr. Sukh Kanwal Singh, Clerk(U/S) fraudulently made the payment of following withdrawals to himself from inoperative HSS account No.92 of Sh. Avtar Singh Dutta by forging the signatures of account holder. He himself has filled in these withdrawal forms. Thus he defrauded the bank with Rs.4,500/-.*

- | <u>Date</u> | <u>Amount of withdrawal</u> |
|-------------|-----------------------------|
| 20.04.89 | Rs.2,000.00 |
| 27.04.89 | Rs.1,000.00 |
| 28.04.89 | Rs.1,000.00 |
| 10.05.89 | Rs. 500.00 |
3. While officiating as teller on 13.5.89, Mr. Sukh Kanwal Singh, Clerk(U/S) fraudulently made a payment of a withdrawal of Rs.1000/- from an inoperative HSS account No.3729 in the names of S/Shrin Subhash Chander and Sunil Kumar. Again on 12.6.89, another withdrawal for Rs.400/- was paid to himself by forging the signature of account holder. Thus he defrauded the Bank with Rs.1400/-.

4. While officiating as Teller, Mr. Sukh Kanwal Singh with ulterior motives made following fictitious debit entries in HSS account No.4084 of Santosh Kumari without any vouchers and authority:

<u>Date</u>	<u>Amount(Rs)</u>
24.04.89	2,000.00
17.05.89	1,000.00
02.06.89	4,500.00
12.07.89	<u>3,500.00</u>

11,000.00

5. He received the payment of following withdrawals from HSS account No.4157 of Smt. Amarjeet Kaur and Smt. Sumitra Kaur by forging the signatures of the account holders.

<u>Date</u>	<u>Amount(Rs)</u>
04.11.88	2,000.00
08.11.88	1,000.00
16.11.88	1,000.00
27/28.12.88	2,000.00
05.01.89	1,000.00
25.01.89	150.00
11.04.89	1,000.00
01.06.89	400.00
05.06.89	1,000.00
08.06.89	300.00
10.06.89	200.00
14.06.89	2,000.00

15.07.89	1,200.00
20.07.89	500.00
31.07.89	<u>1,500.00</u>
	<u>15,250.00</u>

Further to cover up his misdeeds he has manipulated the ledger and made following fictitious Credit/Debit entries in the account:

<u>Date</u>	<u>Amount(Rs)</u>	<u>Credit/Debit</u>
13.03.89	4,400.00	Cr.
27.04.89	4,000.00	Cr.
27.04.89	2,400.00	Cr.
17.05.89	1,000.00	Cr.
02.06.89	4,500.00	Cr.
01.07.89	2,000.00	Cr.
24.07.89	1,500.00	Cr.

6. Likewise, Mr. Sukh Kanwal Singh has also misappropriated the following amount from other Saving Accounts:-

<u>A/C No.</u>	<u>Name of A/C</u>	<u>Amount of withdrawal</u>	<u>Date of withdrawal</u>
	<u>Holder</u>		
105	Balak Singh	200.00	07.07.89
158	Bakshi Ram	800.00	30.05.89
158	Bakshi Ram	1000.00	02.06.89
3829	Ajay Pal Singh & 1 Surinder Singh	000.00	13.03.89
3829	-do-	3000.00	15.04.89
3829	-do-	2000.00	26.04.89
3829	-do-	3000.00	27.04.89
3829	-do-	500.00	09.05.89
231	Bachan Singh	900.00	06.06.89
623	Satnam Kaur	400.00	17.06.89
810	Sohan Singh	1300.00	28.06.89
4175	Jujar Singh	500.00	09.05.89
1940	Gurdita Mal	2000.00	05.07.89
4179	Balwinder Singh	3000.00	16.12.88
5509	Mohinder Singh	<u>3000.00</u>	<u>06.02.89</u>
		<u>20,600.00</u>	

10. Enquiry officer I.S. Sodhi has submitted his inquiry report running more than 14 pages holding that all the charges were proved against the workman and the concluding para of the enquiry report read as follows:-

"The CSO has not contested any of the issues raised in this charge and did not produce any oral or documentary evidence to rebut this charge. Except that he had been asking the witness, whether the entries in the ledger/books have been done in their(witnesses) presence and that whether any document is bearing the initials or signatures of the witnesses during cross examination. The CSO has no where tried to prove that he has not made the entries in different books/ledgers. And that he has not filled the different withdrawals in question. And that he has not made/taken the payments as deposed by different witnesses during the course of the enquiry.

Therefore, I can decidedly conclude that the CSE has misappropriated the amounts from Saving Accounts, as mentioned in this charge."

11. Question which arises for consideration is whether punishment of termination is in proportionate to the charges proved against the charge-sheeted employee/workman. Considering the scope of judicial review on the quantum of punishment and referring to various cases in Jai Bhagwan Vs. Commissioner of Police & Ors., 2013(4) S.C.T. 607: (2013) 11 SCC 187, the Apex Court held as under:-

"What is the appropriate quantum of punishment to be awarded to a delinquent is a matter that primarily rests in the discretion of the disciplinary authority. An authority sitting in appeal over any such order on punishment is by all means entitled to examine the issue regarding the quantum of punishment as much as it is entitled to examine whether the charges have been satisfactorily proved. But when any such order is challenged before a Service Tribunal or the High Court the exercise of discretion by the competent authority in determining and awarding punishment is generally respected except where the same is found to be so outrageously disproportionate to the gravity of the misconduct that the Court considers it be arbitrary in that it is wholly unreasonable. The superior courts and the Tribunal invoke the doctrine of proportionality which has been gradually accepted as one of the facets of judicial review. A punishment that is so excessive or disproportionate to the offence as to shock the conscience of the Court is seen as unacceptable even when courts are slow and generally reluctant to interfere with the quantum of punishment. The law on the subject is well settled by a series of decisions rendered by this Court....."

12. Similarly, the Constitution Bench of the Supreme Court in State of Orissa and Oths. Vs. Vidyabhushan Mahapatra (1963) Supply 1 S.C.R. 648 opined that even if the charges which have been proved justified imposition of punishment of dismissal from service this Court may not exercised its power of judicial review. Thus, it is made clear by the Division Bench that power of judicial review is rare jurisdiction confirmed to the Tribunal as well as High Court which could be exercised in rare manner going thorough the facts and the gravity of the charges proved during the course of enquiry by the management. Similarly, the Hon'ble Supreme Court in Usha Breco Mazdoor Sangh Vs. Management of Usha Breco and Oths., Civil Appeal No.3551/2008 decided on 29.04.2008, has held that:-

"It may not be a correct approach for a superior court to proceed on the premise that an Act is a beneficent legislation in favour of the management or the workmen. The provisions of the statute must be construed having regard to the tenor of the terms used by the Parliament. The court must construe that statutory provision with a view to uphold the object and purport of the Parliament. It is only in a case where there exists a grey area and the court feels difficulty in interpreting or in construing and applying the statute, the doctrine of beneficent construction can be taken recourse to. Even in cases where such a principle is resorted to, the same would not mean that the statute should be interpreted in a manner which would take it beyond the object and purport thereof."

13. It is settled law that punishment of the penalty to be imposed by the disciplinary authority against the charge-sheeted official is to be commensurate with the gravity of alleged misconduct. Undoubtedly, an Industrial Tribunal in terms of Section 11-A of the Act exercises discretionary jurisdiction. Indisputably, discretion must be exercised judiciously and it cannot be based on whims and caprices and should be based to all relevant factors in mind in exercising such jurisdiction. The nature of the misconduct alleged the conduct of the parties the manner in which the enquiry proceedings had been conducted may be held to be relevant factor. A misconduct committed with an intention deserves the maximum punishment. Each case must be decided on its own merits and in given case when the doctrine of proportionality may be invoked.

14. Perusal of charges framed against the accused are relevant for the purpose of deciding proportionality of the punishment. Charges framed and proved against the delinquent employee relates to the withdrawal of the amount by forging withdrawal slip/vouchers of such an accounts-holders who were either dead or whose account was not operational at relevant time. It is also pertinent to mention that sequences of alleged defraud of workman runs from 02.05.1986 to 03.08.1989 in between he withdrew a huge amount of the accounts holders by forging the signature of accounts-holders and defrauding the bank and demising the credibility of the bank towards their respected accounts-holders. It is also clear that workman in order to cover his misdeeds has also mislead the ledger and also made fictitious entries in the respective accounts.

15. It would be not out of place to mention that workman is acquitted in criminal case by the Learned Magistrate, giving the benefit of doubt under relevant section he was charged. It is pertinent to mention that in a criminal case could be not bar for drawing the disciplinary authority against the delinquent official. The Hon'ble Supreme Court in catena of case consequently has held that acquittal in a criminal case could be no bar for drawing up a disciplinary proceeding against the delinquent official. It is well settled principle of law that the yardstick and standard of rule in a criminal case is put from a criminal case while the standard of proof in a criminal case is proved beyond the reasonable doubt is in a departmental proceedings is reasons in a probabilities. Reference may be made to the judgment of Hon'ble Supreme Court in the case of Suresh Pathaila Vs. Oriental Bank of Commerce 2007(3) R.S.J. Vol.69, decided on 19.10.2005. The order of my learned predecessor regarding the fairness of enquiry has become final in which it is held that enquiry has been conducted in reasonable manner after giving reasonable opportunity to the workman. There is no doubt that

workman was employed as a Clerk at the relevant time and he has misappropriated the amount of several accounts-holders during the period November 1988 to July 1989 and was found guilty during the course of enquiry resulting the dismissal by the competent authority of the management. The Hon'ble Supreme Court in the case of Regional Manager, U.P.SRTC vs. Hoti Lal, 2003(3) SCC, 605, has held in paragraph 10 as under:-

"If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transaction or acts in a fiduciary capacity, the highest degree of integrity and trust worthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court do not appear to be proper. We set aside the same and restore order of the learned Single Judge upholding order of dismissal."

This view is further fortified by the Hon'ble Supreme Court in the case of Chairman and Managing Director, United Commercial Bank vs. P.C. Kakkar, 2003(4) SCC 364, has held in paragraph 14 as under:-

"A Bank officer is required to exercise higher standards of honesty and integrity. He deals with the money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager vs. Nikunja Bihari Patnaik, 1996(9) SCC 69. It is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court."

16. Having gone through the above factual and legal position, this Tribunal is of the considered opinion that punishment of dismissal is in commensurate with the gravity of misconduct committed by the workman who defrauded not only the accounts-holders as well as trust of the accounts-holders towards the management-bank. In such scenario, dismissal of the workman Sukh Kanwal Singh is consonance with the misconduct/offences committed by him as such, he is not entitled for any relief and petition is liable to be dismissed.

17. The reference is answered accordingly. Let copy of the award be sent to the Central Government for publication as required under Section 17 of the Act.

A. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1368.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इंडियन एयरलाइंस लिमिटेड के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 19/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-11012/19/2012-आईआर (सीएम-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1368.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi (Ref. No. 19/2013) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Indian Airlines Limited, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-11012/19/2012-IR(CM-I)]

S. C. RAY, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour

Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 19/2013**Date of Passing Award- 29th May, 2019****Between:**

Shri Sripal,
Staff No. 702480,
H.No. J-22, Near Salim Garh Colony,
Angoori Bagh, Near Lal Quila,
Delhi-110006.

...Workman

Versus

The General Manager,
Indian Airlines Limited,
Northern Region, IGI Airport,
New Delhi-110037.

... Managements

Appearances:-

None for the workman (A/R) : For the Workman

Shri Kamal Kant Tyagi (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Indian Airlines Limited, and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 11012/19/2012 (IR(CM-I) dated 01.03.2013 to this tribunal for adjudication to the following effect.

“Whether the action of the management of Indian Airlines Limited in terminating the services of Shri Sripal S/o Shri Babu Lal, Staff No. 702480, Ex-helper (Commercial) w.e.f. 11.01.2007 is legal and justified? To what relief is the concerned workman entitled to?”

The claimant in the claim statement has stated that he was working as a staff of Indian Airlines in the post of commercial helper and a regular employee w.e.f. 16.06.1992. The management illegally terminated his service w.e.f. 11.01.2007. At the time of termination neither the notice of termination, termination compensation, or notice pay was paid by the management. All the representation made by the workman to the management was dismissed. He then approached the Labour Commissioner where the conciliation proceeding was initiated but failed. The other stand of the workman is that since the date of retrenchment he has not been gainfully employed. Thereby the workman made prayer that an award be passed directing the management to reinstate him in his previous post with back wages and all other consequential service benefits.

The management on receipt of the notice appeared and filed written statement admitting that the claimant/workman was serving as a permanent employee of erstwhile AIR India. It has also admitted that the service of the workman was terminated w.e.f. 11.01.2007. The explanation offered by the management is that since the date of employment the workman was a habitual absentee from duty. On several occasions he was warned and removed from service. While submitting detail documents to that effect the management has stated that during course of employment of the workman with the management for the unauthorized absence he was cautioned, basic pay reduced and finally removed from service on 12.02.1999. The appeal preferred by the workman was allowed on a sympathetic ground and he was reappointed on 27.04.2001. His probation period was for 6 months. During this period he again remained absent unauthorizedly, and his probation period was extended and again he was removed from service w.e.f. 23.12.2002. The mercy appeal filed by him was considered, allowed and as a final opportunity he was appointed again on 11.01.2005. This time also his probation period was for 6 months. During this period he again remained absent and probation was further extended. During this period his performance was not satisfactory and warning letters were issued to him. At last his service was terminated w.e.f 11.01.2007. The management has further pleaded that Indian Airlines is a Government of India undertaking having its own rules and procedure. So this order of termination was passed strictly following the

rules. Notice was properly served on the workman before the termination. The management has thus, prayed for dismissal of the reference and has alleged that the workman is guilty of suppression of facts.

On these rival pleading following issues were framed for adjudication.

1. Whether the action of the management of Indian Airlines Ltd., in terminating the services of Shri Sripal S/o Babu lal, Staff No. 702480, Ex-helper (commercial) w.e.f 11.01.2007 is legal and justified ? if so, its effect?
2. To what relief is the concerned workman entitled to and from which date?

When the matter was adjourned for the workman evidence the wife of the workman filed an application supported by the death certificate of the workman praying therein to be substituted as the LRs of the workman. The management raised no objection to the same. Thus, the matter was adjourned for filing of affidavit alongwith a substitution petition. Despite several notices issued in the available address of the workman none appeared to participate in the proceeding.

No oral or documentary evidence was thus, adduced on behalf of the workman. Being called upon the management examined one of its officers as MW1 who proved the documents marked in a series of MW1/1 to MW1/5. These documents include letter of termination the notice of termination and documents relating to the disciplinary action taken against the workman by the management for the unauthorized absence. This evidence of the management has not been controverted in any manner by the workman. On the contrary to substantiate the claim of the workman there is absolutely no evidence on record. Hence, this tribunal has no other option then to dismiss the claim by passing a no claim award. Hence, ordered.

ORDER

The claim be and the same is dismissed, since no claim has been advanced by the workman reference is accordingly answered. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

29th May, 2019

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1369.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 28/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-20012 / 163 / 1997-आईआर (सी-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1369.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 28/2000) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/163/1997-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947Reference: No. 28/2000

Employer in relation to the management of Kusunda Area of M/S. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers : Shri S.N. Ghosh. Adv.

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 28/06 /2019

AWARD

By Order No.L-20012/163/97 -IR (C-I) dated 03/01/2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of Kusunda Area No. VI of BCCL of not promoting Sri Indradeo Prasad Singh, Fitter w.e.f 11.11.86 in Gr. ‘D’ and thereafter in Gr. ‘C’ from 1990 is justified and legal? If not to what relief the workman is entitled and from which date?”

2. After receipt of the reference, both parties were noticed and both the parties appeared for certain dates but subsequently workman left appearing before this Tribunal. Subsequently regd. Noticed was issued to the workman but even then none appeared on behalf of the workman. Moreover notice of union is returned unserved. Case is pending since long. So, it is felt that workman has lost his interest to resolve the matter. Hence No Dispute Award is passed. Communicate .

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1370.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 34/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-20012/33/2009-आईआर (सी-1)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1370.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 34 of 2009) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s.BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/33/2009-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 34/2009

Employer in relation to the management of South Tisra Colliery of M/S. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : Shri Ganesh Prasad. Adv.

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 27/06 /2019

AWARD

By Order No.L-20012/33/2009 -IR (C-I) dated 26/05/2009 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of South Tisra Colliery under Lodna Area of M/s BCCL in dismissing Shri Raj Mani Ram, Shovel Operator from the services of the company w.e.f. 10.02.2004 is justified and legal? To what relief is the workman concerned entitled?”

2. After receipt of the reference, notice was issued to both the parties and thereafter both parties appeared for certain dates but subsequently workman left appearing before this Tribunal. Subsequently regd. Notices were issued but even then none appeared on behalf of the workman. Case is pending since long, so, it is felt that workman has lost his interest to resolve the matter. Hence No Dispute Award is passed. Communicate .

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1371.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 60/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-20012 / 290 / 1999-आईआर (सी-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1371.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 60 of 2000) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s.BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/290/1999-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.**Reference: No. 60/2000**

Employer in relation to the management of C.V. Area of M/S. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 26/06 /2019

AWARD

By Order No.L-20012/290/1999 -IR (C-I) dated 21/01/2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of CV area of BCCL in not providing employment to the dependant wife of Late Thakur Majhi Under NCWA 9.4.2 is justified? If not, to what relief the said dependent is entitled to?”

2. After receipt of the reference, both the parties were noticed and both the parties appeared for certain dates but subsequently workman left appearing before this Tribunal. Thereafter regd. noticed was issued to the workman but even then no one appeared on behalf of the workman. Case is pending since long. So, it is felt that workman has lost his interest to resolve the matter. Hence No Dispute Award is passed. Communicate .

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1372.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 76/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-20012/341/1999-आईआर (सी-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1372.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 76 of 2000) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s.BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/341/1999-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 76/2000

Employer in relation to the management of Katras Area of M/S. BCCL

AND

Their workmen

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : Shri D.K.Verma Adv.

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 26/06 /2019

AWARD

By Order No.L-20012/341/1999 -IR (C-I) dated 28/01/2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of west Mudidih Colliery, under Katras Area of M/S. BCCL in not referring Sri Dukha Sethi, Ranko Sai, Satrughan Nayak and Bharat Nayak to the Medical board for determination of this date of birth on the basis of I.I.No. 76 of JBCCI is proper and justified? If not, to what relief these workman are entitled?”

2. After receipt of the reference, both the parties were noticed and both the parties appeared for certain dates but subsequently workman left appearing before this Tribunal. Thereafter regd. noticed was issued to the workman but even then no one appeared on behalf of the workman. Case is pending since long. So, it is felt that workman has lost his interest to resolve the matter. Hence No Dispute Award is passed. Communicate .

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1373.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 83/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.07.2019 को प्राप्त हुआ था।

[सं. एल-20012 / 405 / 1999-आईआर (सी-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23nd July, 2019

S.O. 1373.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 83 of 2000) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s.BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/405/1999-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.Reference: No. 83/2000

Employer in relation to the management of Govindpur Area- III of M/S. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Aparances:**

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 27/06 /2019

AWARD

By Order No.L-20012/405/99 -IR (C-I) dated 28/01/2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management not to regularize Sri Shibu Hazari w.e.f.18.4.91 as a Dumper Operator Gr.’B’ and not to allow subsequent promotion on the basis of cadre scheme is justified? If not to what relief the workman is entitled and from what date?”

2. After receipt of the reference, both parties were noticed. After that Ld. Secretary of Sponsoring Union has appeared for certain dates but subsequently left appearing before this Tribunal. Subsequently regd. Notice was issued to the Union but even then no one appeared on behalf of the workman. Case is pending since long, so, it is felt that workman has lost his interest to resolve the matter. Hence No Dispute Award is passed. Communicate .

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1374.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 153/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/07/2019 को प्राप्त हुआ था।

[सं. एल-20012/150/1999-आईआर (सी -I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1374.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 153of 1999) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s.BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/150/1999-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 153/1999

Employer in relation to the management of Kustore Area of M/S. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh

Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 28/06/2019

AWARD

By Order No.L-20012/150/1999 -IR (C-I) dated 16/07/1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management is not correcting the date of birth of Smt. Johara Mia, Shale Picker on the basis of basic from B register refusing to send her to Medical Board for assessment of her age was legal and justified? If not, to what relief the concerned lady is entitled?”

2. After receipt of the reference, both the parties were noticed and thereafter workman appeared for certain dates but subsequently failed to take steps before this Tribunal.. Thereafter one regd. Notices was issued but again no one appeared on behalf of the workman. The Regd. Notice has returned with endorsement that addressee has not been found. The management has appeared through lawyer. The case is pending since 1999 but workman is not appearing before this Tribunal. , so it seems that workman has not been interested in contesting the case. It is felt that the workman has lost his interest to resolve the matter. Hence “No dispute” award is passed. communicate

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1375.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम च्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 198/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/07/2019 को प्राप्त हुआ था।

[सं. एल-20012 / 301 / 1999-आईआर (सी-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1375.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 198 of 99) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s.BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/301/1999-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.**Reference: No. 198/99**

Employer in relation to the management of Kusunda Area of M/S. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Aparances:**

For the Employers : Shri Ganesh Prasad. Adv.

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 27/06 /2019

AWARD

By Order No.L-20012/301/1999 -IR (C-I) dated 26/11/1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of Kusunda Area of BCCL in denying employment to Smt. Mira Devi the dependent of Late Rajdeo Mallah ex-shale picker of Bassuria Colly., under para 9.4.2 of NCWA is justified. If not, what relief the dependent wife is entitled to?”

2. After receipt of the reference, both the parties were noticed and both parties appeared for certain dates but subsequently workman left appearing before this Tribunal. Subsequently two regd. notices were issued to the workman which was returned with endorsement that addressee had left. Case is pending for twenty years, so, it is felt that workman has lost his interest to resolve the matter. Hence No Dispute Award is passed. Communicate..

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1376.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच अनुरंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 204/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/07/2019 को प्राप्त हुआ था।

[सं. एल-20012/245/2000-आईआर (सी-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1376.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 204 of 2001) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s.BCCL, and their workmen, which was received by the Central Government on 22.07.2019.

[No. L-20012/245/2000-IR(C-I)]

S. C. RAY, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

n the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 204/2001

Employer in relation to the management of P.B Area of M/S. BCCL

AND.

Their workmen.

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : Shri N.M Kumar Adv.

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated 27/06/2019

WARD.

By Order No.L-20012/245/2000 -IR (C-I) dated 18/09/2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the refusal of the management to pay tub rate and looseman allowance from the effective date of operation of NCWA-V to Sri Ram Prit Dusad and 39 others (as per list) is proper, legal & justified? If not to what relief are the workmen entitled?”

Note:- List of workmen is not enclosed alongwith order of reference.

2. After receipt of the reference, both the parties were noticed and both parties appeared for certain dates but subsequently workman left appearing before this Tribunal. Subsequently regd. noticed was issued But even then no one appeared on behalf of the workman. Case is pending since long. So, it is felt that workman has lost his interest to resolve the matter. Hence No Dispute Award is passed. Communicate

D. K. SINGH, Presiding Officer

नई दिल्ली, 23 जुलाई, 2019

का.आ. 1377.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स जेट एयरवेज इंडिया प्राइवेट लिमिटेड के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (संदर्भ सं. 51/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/07/2019 को प्राप्त हुआ था।

[सं. एल-11012/22/2013-आईआर (सीएम-1)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 23rd July, 2019

S.O. 1377.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Kolkata (Ref. No. 51 of 2013) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Jet Airways (India) Private Limited , and their workmen, which was received by the Central Government on 17.07.2019.

[No. L-11012/22/2013-IR(CM-I)]

S. C. RAY, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Reference No. 51 of 2013**

Parties: Employers in relation to the management of M/s. Jet Airways (India) Ltd.

AND
Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : None

On behalf of the Workmen : Mr. R.K. Dubey, learned counsel with
: Mr. M. Khan, learned counsel.

State: West Bengal.

Industry: Civil Aviation

Dated: 6th June , 2019

AWARD

Brief facts in the background of which this reference has been made by the Government of India to this Tribunal are that the workman concerned, Shri Arghya Bose joined Air Sahara as an Officer Technician. However, after acquisition of all the shares of Air Sahara by Jet Airways all workforce Cockpit Crew, Cabin Crew, AME's and other technicians working with Air Sahara continued as employees of Jet Airways working in the same capacity as before. All of a sudden in the year 2010 wife of workman concerned sustained burn injuries and she breathed her last in the hospital where she has also given a dying declaration to the effect that she herself put on fire, but an FIR was lodged by the father-in-law of the workman concerned. The workman along with his father, mother and brother was arrested on 5th March, 2012. The workman could not send any written intimation to the employer, but he claims to have duly communicated the said incident and fact of his arrest to one Shri Nitish Pradhan the Coordinator for the day on his mobile at around 4.30 A.M. Until his release from custody on 24th July, 2012, he did not send any intimation letter to Jet Airways. After his arrest on 5th March, 2012 a show cause notice dated 5th April, 2012 was sent through registered post to the workman concerned to explain the reasons for his absence which was not replied by him. Thereafter on 12.06.2012 a chargesheet was issued and Enquiry Officer was appointed to hold domestic enquiry against the workman concerned who remained absent from duty for 99 days during the period from 6th March, 2012 to 12th June, 2012. During enquiry the workman concerned participated in the enquiry but did not cross-examined the witnesses of the management and admitted the dates of his absence from duty. He also admitted that he could not inform the company the cause of his absence from duty. No witness was examined by him in his defence. After conclusion of enquiry the Enquiry Officer submitted the enquiry report on 7th August, 2012. A show cause notice was again issued to the workman concerned to represent against the findings of the Enquiry Officer which he replied vide his letter dated 13th December, 2012. Thereafter the disciplinary authority finally concurring with the findings of the Enquiry Officer passed an order dated 7th January, 2013 dismissing the services of the workman concerned. In industrial dispute arose which has been referred by the Government of India in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 vide Order No. L-11012/22/2013-IR(CM-I) dated 29.08.2013 in following words:

“Whether the action of Jet Air Lines (I) Ltd. in dismissing Shri Arghya Bose, Sr. Air Craft Maintenance Technician (Airframe and Engine) from service w.e.f. 01/7/2013 is legal and justified? What relief the workman is entitled to?”

2. After receipt of above order of reference, notices were issued to the parties concerned. The workman concerned appeared and files his statement of claim pleading therein that during enquiry he was placed under suspension from the date of issue of letter dated 01.08.2012 mentioning therein that he will be paid subsistence allowance during the period of his suspension, but the said letter was received by him only on 16.11.2012 as it was posted only on 14.11.2012. The suspension order was not served on him during continuance of enquiry proceeding. Thus during enquiry no subsistence allowance was paid. However, after a long gap of 8 months an amount of Rs.64,655/= was credited to his salary account

on 27.12.2013 for the period August, 2012 to November, 2012. Thus the management tried to legalized the same by making subsequent payment. It has been further pleaded that no document was provided to the workman concerned. Principles of natural justice were violated. The domestic enquiry was practically was a sham one. He was not provided with proper opportunity to defend his case. He was not provided with any opportunity to adduce his evidence. The workman concerned has further pleaded that after his release from custody on 24th July, 2012, he was asked by the management to attend the enquiry proceedings without providing him minimum time to prepare for the enquiry and the whole enquiry was concluded in a hasty manner within a span of four days. None of the charges leveled against the workman was proved. The absence of the workman from duty was neither willful nor deliberate, but under the circumstances beyond his control. The management has dismissed him in a most illegal, perverse and *mala fide* manner.

3. Despite service of notice on management, nobody appeared for them. NO written statement was filed. Hence the case proceeded *ex parte* against the management and *ex parte* evidence of workman was recorded.

4. As the validity of enquiry has been challenged by the workman concerned in his statement of claim, the same is being taken up first for consideration.

5. The ingredients of a valid enquiry have been propounded by the Hon'ble Supreme in the case of **Sur Enamel & Stamping Works v. their workmen**, reported in 1963-II-LLJ 367. The Hon'ble Supreme Court has held than an enquiry cannot be said to be properly held unless -

- (1) The employee proceeded against has been informed clearly of the charges leveled against him;
- (2) The witnesses are examined ordinarily in the presence of the employee in respect of the charges;
- (3) The employee is given fair opportunity to cross-examine witnesses;
- (4) The employee is given a fair opportunity to examine witnesses including himself in his defence, if he so wishes and
- (5) The Enquiry Officer records his findings with reasons for the same in his report.

6. Four charges have been leveled against the workman concerned which included his absence without leave for more than 10 days, carelessness/casual behavior in his work, willful insubordination or disobedience and subversive act or neglect of work. All these four charges have been mentioned in chargesheet dated 12.06.2012 in abbreviated form viz., the details of absence, insubordination, carelessness or negligence are not mentioned in the chargesheet. Mere mentioning the fact that the workman concerned was careless, he remained absent for 10 days without leave, he was negligent in his work or there was disobedience on his part does not give clear picture of the charges leveled against him. Unless and until the workman is informed as to how he was careless, what insubordination or disobedience has been committed by him and how his act was subversive or he was negligent in his work, effective and complete reply cannot be submitted. He is not in a position to deny the allegations. The Hon'ble Supreme In **Surath Chandra Chakraborty v. State of West Bengal**, AIR 1971 SC 752 has held that it is not permissible to hold an enquiry on a vague charge as the same does not give a clear picture to the delinquent to make an effective defence because he may not be aware as to what is the allegation against him and what kind of defence he can put in rebuttal. The relevant portion of the judgment may be quoted below:

"5. The grounds on which it is proposed to take action have to be reduced to the form of a definite charge or charges which have to be communicated to the person charged together with a statement of allegations on which each charge is based and any other circumstance which it is proposed to be taken into consideration in passing orders has also to be stated. This rule embodies a principle which is one of the basic contents of a reasonable or adequate opportunity for defending oneself. If a person is not told clearly and definitely what the allegations are on which the charges preferred against him are founded, he cannot possibly, by projecting his own imagination, discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him."

7. Similarly in **Sawai Singh v. State of Rajasthan**, AIR 1986 SC 995 the Hon'ble Supreme Court has again held that even in a domestic enquiry the charge must be clear, definite and specific as it would be difficult for any delinquent to meet the vague charges. Evidence adduced should not be perfunctory even if the delinquent does not take the defence or make a protest against that the charges are vague, that does not save the enquiry from being vitiated for the reasons that there must be a fair play in action.

8. Following the above proposition of the Hon'ble Supreme Court, the Hon'ble Bombay High Court in Writ Petition No. 7211 of 2016, **Ravindra Bhimrao Patil v. Executive Director, Jawhar Sahakari Sootgirni Limited, Dhule** decided on 22nd November, 2016 has emphasized that unless charges are clear and specific, the domestic enquiry cannot be held to be valid. The relevant portion of the judgment is as below:

"16. Where the chargesheet is accompanied by the statement of fact and the allegations are not specific in the chargesheet, but are crystal clear from the statement of fact, in such a situation, as both constitute the same document, it cannot be held that as the charges were not specific, definite and clear, the enquiry stood vitiated. Thus nowhere should a delinquent be served a chargesheet, without providing him, a clear, specific and definite description of the charge against him. When statement of allegations is not served with the chargesheet, the enquiry stands vitiated, as having been conducted in violation of the principles of natural justice."

9. Now adverting to the facts of the present case, I have no hesitation to say that the charges framed against the workman concerned are not clear and specific so as to give a clear picture of allegations. Copy of chargesheet, Ext. W-04 does not show that it was accompanied by any statement of facts. From the above cited case law it is evident that where the charge are not clear and specific but crystal clear from the facts, then charges cannot be said to be not specific, definite and clear. But, in the present case, in absence of any statement of facts giving details of carelessness, insubordination, disobedience and subversiveness or negligence of work, the charges cannot be said to be clear, definite and specific.

10. Though in the instant case the workman concerned did not admittedly replied to the charge and remained absent throughout the enquiry, but as it has been held by the Hon'ble Apex Court in above case laws that it is not necessary for the workman to make protest against the manner in which the charges are framed in the chargesheet. If the charges are not clear, definite and specific the enquiry stands vitiated, even if no protest made by the workman concerned. Hence, in view of above, the enquiry against the workman concerned stands vitiated.

11. Next limb of argument of the workman concerned is that during his suspension period he was not paid subsistence allowance. After conclusion of enquiry and a gap of eight months an amount of Rs.64,655/= was credited to his salary account on 27th December, 2012 for the period of August, 2012 to November, 2012. Non-payment of subsistence allowance during enquiry has always been held to be a factor which vitiates the enquiry. In **Bombay Forging Limited vs. Prem Kumar K. Sonar & Others**, 1999 (4) LLJ 178 where it was not disputed that subsistence allowance was not paid to the workman during suspension period, the Hon'ble Bombay High Court held that the enquiry was vitiated on this very ground. In **Captain M. Paul Anthony vs. Bharat Gold Mines Limited**, 1999 (2) LLN 640 the Hon'ble Supreme Court has held that the provisions of payment of subsistence allowance made in the service rules only ensures non-violation of the right to life of the employee. When the employee is placed under suspension, he is demolished and the salary is also paid at a reduced rate under nickname "subsistence allowance", so that the employee may sustain himself. The very object of paying the reduced salary to the employee during the period of suspension would be frustrated if even subsistence allowance is not paid because "subsistence" means of supporting life, specially a minimum livelihood. The act of non-payment of subsistence allowance can be likened to slow poisoning as the employee, is not permitted to sustain himself on account of non-payment of subsistence allowance would gradually starve himself to death. Similarly in **Kue VIna Shyamrao Kakde vs. Presiding Officer**, 2004 (4) LLJ 249 the Hon'ble Bombay High Court was of the view that non-payment of subsistence allowance during the period of suspension and enquiry goes to the root of the matter and therefore, the enquiry vitiates.

12. Reverting back to the facts of the present case, the workman concerned was suspended vide letter dated 01.08.2012 with immediate effect. According to the workman concerned this letter reached him on 16.11.2012 as the management deliberately did not dispatch this letter of suspension which is clear from receipt of the post office on the envelope. The letter of suspension appears to have been dispatched only on 14.11.2012. The workman concerned has contended that the letter of suspension was deliberately dispatched late as a device not to pay subsistence allowance during continuation of enquiry. From the record it appears that the chargesheet was submitted in June, 2012 and the enquiry concluded on 7th August, 2012 when the enquiry report was submitted to the concerned authority. Though in suspension letter it is mentioned that subsistence allowance as per law during the period of suspension will be paid to the workman concerned, but there is nothing on record to show that during continuance of enquiry the subsistence allowance was ever paid to him. He was also not paid salary for the period of August, 2012 to November, 2012. Though an amount of Rs.64655/= was paid to the workman concerned by way of transfer to his account on 27.12.2012, but only after conclusion of enquiry and also after reply of the workman concerned to the show cause notice. The reply of show cause notice of the workman concerned was submitted on 13th December, 2012 in which he has raised the issue of non-payment

of wages from June, 2012. Thereafter the above amount of Rs.64655/= appears to have been transferred to the account of the workman concerned. There is no rebuttal of the averments made by the workman by the management. Hence there is no reason to disbelieve him. Where the subsistence allowance is not paid to the workman concerned during continuance of enquiry, it certainly affects the workman concerned adversely. Hence, on this count also the enquiry is vitiated.

13. Though the workman concerned has claimed that the copies of documents were not supplied to him, but from the perusal of the chargesheet it does not appear that any document had been relied on in the chargesheet to prove the allegations against the workman concerned. Hence there is no question of supply of those documents.

14. In view of above, I come to the conclusion that framing of clear, specific and definite charges and payment of subsistence allowance to the workman concerned are the procedural requirements of a valid domestic enquiry, but these are fundamental in nature which go to the root of the enquiry. Non-compliance of the above requirements certainly prejudices the case of the workman. Therefore, the enquiry against the workman concerned is invalid and not proper.

15. Where the enquiry is held to be invalid, the management must be given the liberty to file a proper chargesheet and to lead evidence justifying its action against the workman concerned. But, at the same time it is incumbent upon the management to ask for opportunity to lead evidence to prove the allegations against the workman concerned. The Hon'ble Apex Court in **Shankar Chakraborty v. Britannia Biscuits Company**, (1979) 3 SCC 371 has observed in following words:

"It is for the employer to ask for such opportunity to lead evidence to prove the charge of misconduct and once such prayer is made in any form, i.e., orally or by application or in the pleading, the same cannot be denied."

Thus it is clear that the Tribunal is not duty bound to afford opportunity to the employer/management to prove charges on merit. The employer must pray for opportunity to lead evidence, either orally or by an application or by way of making prayer in its pleading. As the instant case is proceeding *ex parte* and despite knowledge of the proceeding the management never appeared in the case, the Tribunal cannot *suomoto* grant opportunity to the management to conduct enquiry against the workman before the Tribunal by filing a fresh chargesheet and by leading fresh evidence.

16. In view of above, the action of Jet Airlines (I) Ltd. in dismissing the workman, Shri Arghya Bose, Senior Air Craft Technician from service cannot be held to be legal and justified as the very basis of action, i.e., the enquiry has been held to be illegal and not proper and as his dismissal is illegal, the workman concerned is entitled for his reinstatement along with 50% back wages.

Award is passed accordingly.

Dated, Kolkata

The 6th June, 2017

JUSTICE RAVINDRA NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1378.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हलदिया डोक कम्प्लैक्स, मै. फाइव स्टार शिपिंग एजेन्सी (प्रा.) लि. के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (संदर्भ सं. 21/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/07/2019 को प्राप्त हुआ था।

[सं. एल-32011/04/2015-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1378.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2016) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the Industrial Dispute between the management of Haldia Dock Complex, M/s. Five Star Shipping Agency (P) Ltd. and their workmen, received by the Central Government on 24.07.2019.

[No. L-32011/04/2015-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Reference No. 21 of 2016**

Parties: Employers in relation to the management of Haldia Dock Complex

AND**Their workmen**

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : None

On behalf of the Workmen : None

Dated: 17th July, 2019.

Industry: Port & Dock.

AWARD

By Order No.L-32011/04/2015-IR(B-II) dated 12/16.02.2016 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. Five Star Shipping Agency (P) Ltd. handling operator of Haldia Dock Complex in denying the 26 points of charter of demand raised by the union is legal and/or justified? If not, what relief the workmen are entitled?

3. When the case was taken up for hearing today, none appeared for the parties concerned. It transpires from record that though this reference is pending in this Tribunal since 26.02.2016 and inspite of all the opportunities, neither the union has filed its statement of claim, nor the managements have filed its written statement to proceed further with the case.

3. On consideration of the facts and circumstances of the case, it appears that the union has no grievance at present in respect of its 26 points charter of demands as mentioned in the order of reference. Therefore, there exists no dispute for adjudication.

5. Therefore, the reference is disposed of accordingly.

JUSTICE RAVINDRA NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1379.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना (बिहार) के पंचाट (संदर्भ सं. 04(सी)/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/07/2019 को प्राप्त हुआ था।

[सं. एल-12011/15/2018-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1379.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Patna (Bihar) (Ref. No. 04(C) of 2018) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Punjab National Bank, and their workmen, which was received by the Central Government on 24.07.2019.

[No. L-12011/15/2018-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA.

Reference Case No.: 04 (C) of 2018

Between the management of (1) The Circle Head, Punjab National Bank, Circle Office, G.M.Road, P.O Lalbagh Darbhanga-846004 (2) The Manager, Punjab National Bank, At PO- Simari, Distt.- Darbhanga-847106 and their workman Md. Gulab, Part Time Sweeper represented through the President, Bank Employees Federation, Bihar Saboo Complex, 2nd Floor, Behind Republic Hotel, Exhibition Road, Patna (Bihar)-800001.

For the management : Mrs. Preeti, Dy Manager, HRD.

For the Workman : Sri B. Prasad, President of Bank Employees Federation, Bihar.

Present:

Vishweshwar Nath Mishra Presiding Officer, Industrial Tribunal, Patna.

AWARD

Patna, dated : 8th July, 2019

By the adjudication order no.-L-12011/15/2018-IR(B-II) dated- 16.05.2018 the Govt. of India, Ministry of Labour, New Delhi has referred under clause (d) of sub-section-(1) and sub-section-(2A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “ the Act”), the following dispute between (1) The Circle Head, Punjab National Bank, Circle Office, G.M.Road, P.O Lalbagh Darbhanga-846004 (2) The Manager, Punjab National Bank, At PO- Simari, Distt.- Darbhanga-847106 and their workman Md. Gulab, Part Time Sweeper represented through the President, Bank Employees Federation, Bihar Saboo Complex, 2nd Floor, Behind Republic Hotel, Exhibition Road, Patna (Bihar)-800001. for adjudication to this tribunal:-

SCHEDULE

“Whether the demand of the workman in seeking regularization in service is covered under I.D.Act, 1947? If yes, whether the action of the management of Punjab National Bank, in not regularizing services of Md. Gulb, Part Time Sweeper working from 22.10.2011 at Simari Branch, Darbhanga is justified? What relief the workman concerned is entitled to.”

2. After receipt of the reference / notification, notices were issued to the parties concerned through registered post. Both parties appeared before this tribunal and filed their statement of claim, written statement, list of witnesses & documents.

3. Brief case of the workman is that the Md. Gulb, S/O- Late Abdul Sakur, resident of vill. & P.O- Beta, Lahariasarai, Dist.- darbhanga, was orally appointed at Simari Branch, Punjab National Bank, Dist.- Darbhanga w.e.f 22.10.2011 to discharge the duties of a Part Time Sweeper. After appointment the workman has been discharging all the duties of a Part Time Sweeper i.e Sweeping, cleaning of Branch premises, bath room table, chairs, counters etc. and other sundry jobs of a peon also. Workman has been discharging his duties from 9A.M to 5.30P.M regularly and on some occasions even beyond that.

Further case of the workman is that the initially, the workman was being paid wages @ Rs 46/- per day which was raised to @ Rs. 109/- per day. Presently the workman is being paid monthly wages @ Rs. 4428/- . There is no permanent part time sweeper at Simari branch from the opening date of the branch. Duties of the workman are perennial in nature. Workman prays for regularization in the services of the bank as a part time sweeper.

4. Case of the management is that the workman (claimant) cannot be treated as workmen as per Section 2(s) of the Industrial Dispute Act, 1947. He was merely engaged on leave gap arrangement and his services were utilized as and when required for which he was duly paid. The bank has not entered into any agreement with the workman (claimant). Thus, the employer-employee relationship does not exist between the bank and the workman (claimant). Md. Gulab, (Bihar) was engaged for doing work on leave gap arrangement by the branch office Simri, Darbhanga. As such the workman (claimant) cannot claim for regularization of service and consequential benefits as a matter of right.

Further case of the management is that the workman (claimant) failed to produce any documentary proof to strengthen his claim. Neither any appointment letter was issued nor was any salary paid to him. He was merely engaged to do work on leave gap arrangement for which he was duly paid. His services were not perennial in nature as his services were utilized as and when required within the premises of the branch or when some work need to be accomplished. Workman (claimant) has worked on leave gap arrangement and he was adequately compensated for the same. Therefore, he does not have any legal right for confirmation / regularization of service for the permanent post.

5. On 27.06.2019 both parties appeared and submitted that the matter has been settled out of the court. The workman Md. Gulb is physically present in the court. He accepted the factum of compromise arrived at between the

parties. In his deposition he was stated that while the matter was pending before this tribunal, the Bank advertised vacancies and decided to employ him in the services of the bank on regular basis. The witness has further stated that as the management has decided to regularize his services, he does not want to proceed with this case any further and the same should be dispossessed of.

6. Heard the representative of both the parties and perused the record, pleading and evidence available on the record. As the management is ready to engage the workman in the service, therefore, his grievances have been redressed and as such now no longer any dispute exists between the parties and this reference is dispossessed of as "no dispute ".and accordingly "No Dispute Award " is being passed.

This is my award accordingly.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1380.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना (बिहार) के पंचाट (संदर्भ सं. 04(सी)/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/07/2019 को प्राप्त हुआ था।

[सं. एल—39025/01/2019-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1380.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04(C) of 2015) of the Industrial Tribunal, Patna (Bihar) as shown in the Annexure, in the Industrial Dispute between the management of Union Bank of India, and their workmen, which was received by the Central Government on 24.07.2019.

[No. L-39025/01/2019-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

Before the Presiding Officer, Industrial Tribunal, Patna.

I.D. Case No.: 04 (C) of 2015

Between the management of Deputy General Manager, Union Bank of India, Nodal Regional Office, Naseman Building, Fraser Road, Patna-800001 and Their workman Sri Dilip Kumar Gupta, S/O- Late Ramdeo Prasad, Vill. & P.O- Sukatia Bazar, P.S- Gopalpur, Dist.- Bhagalpur, Bihar-853205.

For the management:- Sri Abhijeet Prakash, Manager, (Law).
Sri Ashish Ankur, Manager (HR).

For the workman :- Sri B. Prasad, President, Bank Employees Federation, Bihar.

Present :- **Vishweshwar Nath Mishra Presiding Officer,**
Industrial Tribunal, Patna.

AWARD

Patna, dt- 9th July,2019.

1. The present case has been filed an application u/s 2A (1 & 2) of the Industrial Dispute (Amendment) Act, 2010 by the aforesaid workman who seeks relief of Setting aside the order dated-02.05.2014 passed by the Ld Disciplinary Authority & confirmed by the Ld. Appellate Authority vide order dated-21.11.2014, reinstatement in the services of the Bank with all consequential benefits and payment of cost of Rs. 20000/- for contesting the dispute.

2. Matter was raised by the workman before the Assistant Labour Commissioner (Central), Pakur (for short A.L.C (C), who issued notice on 15th January, 2015 to the concerned parties vide file no. 5/03/15-ALC-PKR.

3. The Assistant Labour Commissioner (C) Patna held discussions / Conciliation Proceedings. The attitude of the management, during conciliation proceeding was far from conciliatory and there was no scope of redressal of grievances either before the management or before the conciliation officer.
4. As a period of more than 45 days elapsed with no sign of any settlement, the workman preferred an application before this tribunal as per the provisions of section 2A (1 & 2) of the Industrial Disputes (Amendment) Act, 2010.
5. Both parties appeared before this tribunal and statement of claim and written statement were filed by the concerned parties.
6. In the instant case a petition has been filed on behalf of the management on 05.07.2018 stating therein that in view of the recent judgement of the Hon'ble Patna High Court passed in C.W.J.C No.- 2053 of 2016 on 22.11.2017 and confirmed in L.P.A No.- 1822 of 2017 on 17.05.2018 the present I.D. Case is not maintainable and hence the same should be rejected.
7. A petition has also been filed on behalf of the workman on 07.02.2019 praying theirin to withdraw the instant I.D. Case in view of the judgement of the Hon'ble Patna High Court and the workman himself want to withdraw the I.D. Case.
8. Heard both the parties.
9. Accordingly, In view of the petition dt-07.02.2019 filed by the workman, the instant I.D. Case is hereby disposed of as withdrawn and also being not maintainable in view of the aforesaid judgement of the Hon'ble Patna High Court. This award is affected after gazette notification / publication of award.

Accordingly, this is my award.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1381.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना (बिहार) के पंचाट (संदर्भ सं. 11(सी)/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/07/2019 को प्राप्त हुआ था।

[सं. एल-39025/01/2019-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1381.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11(C) of 2015) of the Industrial Tribunal, Patna (Bihar) as shown in the Annexure, in the Industrial Dispute between the management of Punjab National Bank, and their workmen, which was received by the Central Government on 24.07.2019.

[No. L-39025/01/2019-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA.

I.D. Case No. 11 (C) of 2015

Between the management of (1) The General Manager (H.R.D) Punjab National Bank, Head Office, 7, Bhikaji Cama Place, Africa Avenue, New Delhi-110067 (2) The Circle Head, Punjab National Bank, G.M.Road, Akash Vani, Darbhanga-846004 and their workman Sri Gunjan Kumar, S/O- Sri Madhurendra Kumar, Vill.- Ekamma, P.O- Ghonghour, P.S- Raj Nagar, Dist- Madhubani, Bihar- 8447235.

For the management : Sri Arvind Indwar, Senior Manager, HRD.

For the Workman : Sri B. Prasad, President of Bank Employees Federation, Bihar.

**Present :- Vishweshwar Nath Mishra Presiding Officer,
Industrial Tribunal, Patna.**

AWARD

Patna, dt- 25th June, 2019

1. The present case has been filed u/s 2A (1 & 2) of the Industrial Dispute (Amendment) Act, 2010 by the aforesaid workman who seeks relief for quashed order dated- 22.05.2013 passed by the disciplinary authority and to reinstatement with back wages with all consequential benefits.
2. Matter was raised on 27.05.2015 by the workman before the Assistant Labour Commissioner (Central), Pakur (for short A.L.C (C), who issued notice to the concern parties and held conciliation proceedings.
3. The Assistant Labour Commissioner (C) Pakur held discussions / Conciliation Proceedings. The attitude of the management, during conciliation proceeding was far from conciliatory and there was no scope of redressal of grievances either before the management or before the conciliation officer.
4. As a period of more than 45 days elapsed with no sign of any of any settlement, the workman preferred an application before this tribunal as per the provisions of section 2A (1 & 2) of the Industrial Disputes (Amendment) Act, 2010.
5. Before the reference this I.D.Case No.- 11(C) of 2015 was filed by the workman Sri Gunjan Kumar u/s-2A (1 &) of the I.D.Act (Amendment) 1947.
6. As per the case of the workman he raised Industrial Dispute before the Assistant Labour Commissioner (C), Pakur vide application dt- 27.05.2015. The Assistant Labour Commissioner (C), Pakur held conciliation proceeding. As a period of three months elapsed with no sign of any settlement, the workman filed this Industrial Dispute Case in this tribunal. In the mean time the matter was also referred by the Central Government (Ministry of Labour / Shram Mantralaya) vide order dt- 18.02.2016 as aforesaid. Further by order dt- 06.04.2016 as in both the I.D Case and Reference Case the parties were same and the matter for adjudication was also the same therefore, both the cases were made analogous. Later on a petition was filed by the workman on 09.07.2018 for segregating Reference Case No.- 09(C) of 2016 from the I.D.Case NO.- 11(C) of 2015 and for adopting the written statement, evidences as well as other materials available in the I.D.Case in the Reference Case. The petition was allowed by this tribunal on 04.12.2018 and the prayer of the workman was accepted by this tribunal.
7. In the instant case withdrawal petition has been filed on behalf of the workman on 06.02.2019 stating therein that in view of the recent judgement of the Hon'ble Patna High Court passed in C.W.J.C No.- 2053 of 2016 on 22.11.2017 and confirmed in L.P.A No.- 1822 of 2017 on 17.05.2018 the present I.D. Case is not maintainable and praying theirin to withdraw the instant I.D.Case.
8. Heard both the parties.
9. As the petitioner / workman himself wants to withdraw the I.D.Case, his prayer is hereby allowed and the I.D. Case is accordingly dispossed off as withdrawn and not maintainable in the light of the aforesaid judgement of the Hon'ble Patna High Court. This award is effected after gazette notification / publication of award.

Accordingly, this is my award.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1382.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना (बिहार) के पंचाट (संदर्भ संख्या 14 (सी) / 2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.07.2019 को प्राप्त हुआ था।

[सं. एल-39025 / 01 / 2019-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14(C) of 2015) of the Industrial Tribunal, PATNA (BIHAR) as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 24.07.2019.

[No. L-39025/01/2019-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

I.D. Case No. 14 (C) of 2015

Between the management of Circle Head, Punjab National Bank, Circle Office, chankya Place, 'R' Blcok, Patna-800001 and Their workman Sri Kishore Kumar, S/O- Sri Ashok Das, Chhoti Ambedkar Nagar, Bakthiharpur, Patna-803212.

For the management : Sri Niraj Kumar, Senior Manager, HRD

Sri Ranjit Kumar Karan, Officer

Sri R.R. Jha, Senior Manager, HRD

For the Workman : Sri B. Prasad, President of Bank Employees Federation, Bihar

Present : Vishweshwar Nath Mishra, Presiding Officer,
Industrial Tribunal, Patna

AWARD

Patna, dt. 17th July, 2019

1. The present case has been filed u/s 2A (1 & 2) of the Industrial Dispute (Amendment) Act, 2010 by the aforesaid workman who seeks relief of reinstatement with back wages in the services of the Bank as a part time sweeper under 1/3rd pay scale of a full time subordinate staff and regularisation of services as part time sweeper.

2. Matter was raised by the workman before the Assistant Labour Commissioner (Central), Patna (for short A.L.C (C) Patna) on 10.06.2015, who issued notice dt- 19.06..2015 to the parties vide file no.- 1/69/2015/ALC -I ;.

4. As a period of more than 45 days elapsed with no sign of any settlement, the workman preferred an application before this tribunal as per the provisions of section 2A (1 & 2) of the Industrial Disputes (Amendment) Act, 2010.

5. Before the reference this I.D.Case No.- 14(C) of 2015 was filed by the workman Sri Kishore Kumar u/s-2A (1 &) of the I.D.Act (Amendment) 1947.

6. As per the case of the workman he raised Industrial Dispute before the Assistant Labour Commissioner (C), Patna vide application dt- 26.03.2015. The Assistant Labour Commissioner (C), Patna held conciliation proceeding. As a period of three months elapsed with no sign of any settlement, the workman filed this Industrial Dispute Case in this tribunal. In the mean time the matter was also referred by the Central Government (Ministry of Labour / Shram Mantralaya) vide Notification No.- 12012/76/2015-IR(B-II) dt- 12.02.2016. Further by order dt- 05.05.2016, as in both the I.D Case and Reference Case the parties were same and the matter for adjudication was also the same, therefore, both the cases were made analogous. Later on a petition was filed by the workman on 11.06.2018 for segregating Reference Case No.- 04(C) of 2016 from the I.D.Case NO.- 14(C) of 2015 and for adopting the written statement, evidences as well as other materials available in the I.D.Case in the Reference Case. The petition was allowed by this tribunal on 11.06.2018 and the prayer of the workman was accepted by this tribunal.

7. In the instant case withdrawal petition has been filed on behalf of the workman on 04.07.2019 stating therein that in view of the recent judgement of the Hon'ble Patna High Court passed in C.W.J.C No.- 2053 of 2016 on 22.11.2017 and confirmed in L.P.A No.- 1822 of 2017 on 17.05.2018 the present I.D. Case is not maintainable and praying theirin to withdraw the instant I.D.Case.

8. Heard both the parties.

9. As the petitioner / workman himself wants to withdraw the I.D.Case, his prayer is hereby allowed and the I.D. Case is accordingly dispossed off as withdrawn as not maintainable in the light of the aforesaid judgement of the Hon'ble Patna High Court. This award is effected after gazette notification / publication of award.

Accordingly, this is my award.

Dictated & Corrected by me.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1383.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना (बिहार) के पंचाट (संदर्भ संख्या 05 (सी) / 2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.07.2019 को प्राप्त हुआ था।

[सं. एल-12011 / 14 / 2018-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05(C) of 2018) of the Industrial Tribunal, PATNA (BIHAR) as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 24.07.2019.

[No. L-12011/14/2018-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No. 05 (C) of 2018

Between the management of (1) The Circle Head, Punjab National Bank, Circle Office, G.M.Road, P.O Lalbagh Darbhanga-846004 (2) The Manager, Punjab National Bank, Laheriasarai Branch, Darbhanga-846001 and their workman Sri Sonu Kumar Ray, represented through the President, Bank Employees Federation, Bihar Saboo Complex, Exhibition Road, Patna (Bihar)-800001.

For the management : Mrs. Preeti, Dy Manager, HRD.

For the Workman : Sri B. Prasad, President of Bank Employees Federation, Bihar

Present: Vishweshwar Nath Mishra, Presiding Officer,
Industrial Tribunal, Patna.

AWARD

Patna, dated 8th July, 2019

By the adjudication order no.-L-12011/14/2018-IR(B-II) dated- 02.08.2018 the Govt. of India, Ministry of Labour, New Delhi has referred under clause (d) of sub-section-(1) and sub-section-(2A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “ the Act”), the following dispute between (1) The Circle Head, Punjab National Bank, Circle Office, G.M.Road, P.O Lalbagh Darbhanga-846004 (2) The Manager, Punjab National Bank, Laheriasarai Branch, Darbhanga-846001 and their workman Sri Sonu Kumar Ray, represented through the President, Bank Employees Federation, Bihar Saboo Complex, Exhibition Road, Patna (Bihar)-800001 for adjudication to this tribunal:-

SCHEDULE

“ Whether the regularization is an industrial dispute under ID Act, if yes, whether the claim of Sri Sonu Kumar Ray, Part Time Sweeper at Punjab National Bank, Laheriasarai Branch, Darbhanga from June, 2015 for regularizing of services of is legal and justified? If yes, to what relief the workman concerned is entitled to and to what extent?”

2. After receipt of the reference / notification, notices were issued to the parties concerned through registered post. Both parties appeared before this tribunal and representative of the workman filed statement of claim. Several opportunities were given to the management for filing written statement but the management failed to file any written statement in this case.

3. Brief case of the workman is that the Punjab National Bank opened a Branch at Laheriasarai in June, 2015 and Sri Sonu Kumar Rai, the concerned workman, was orally appointed to discharge the duties of a Part-Time Sweeper thereat. There was a permanent vacant post of Part-Time Sweeper under ½ scale wages of a Subordinate staff. After appointment the workman used to discharge all the duties of a sweeper Viz- (a) Opening of Banks Gate; (b) Sweeping, cleaning the branch premises, bath room, counters, tables, furniture etc. (c) Other sundry jobs of a Sweeper / peon also. Workman has been discharging the duties from 9.00A.M to 5.00 P.M regularly. Workman has been working in permanent vacant post of a Part Time Sweeper.

Seeing no scope of redressal of his grievances for regularizing his services as a Part-Time Sweeper, the workman caused an Industrial Dispute raised as per the provisions of I.D.Act which culminated in reference of the dispute before the this tribunal for adjudication.

Although the workman has been discharging the duties for over 3 years, he has been denied the benefits of permanent workman viz-Provident Fund, Leave, Medical benefits, LFC, etc.

Workman prays for relief for regularization of his service as a Part Time Sweeper under ½ scale wages of a full time subordinate staff, payment of due wages for the period of his working.

4. Ultimately on 27.06.2019 both parties appeared and submitted that the matter has been settled out of the court. The workman Sonu Kumar Ray is physically present in the court. He accepted the factum of compromise arrived at between the parties. In his disposition he was stated that while the matter was pending before this tribunal, the Bank advertised vacancies and decided to employ him in the services of the bank on regular basis. The witness was further stated that as the management has decided to regularize his services, he does not want to proceed with this case any further and the same should be disposed of.

5. Heard the representative of both the parties and perused the record, pleading and evidence available on the record. As the management is ready to engage the workman in the service, therefore, his grievances have been redressed and as such no longer any dispute exists between the parties and this reference is disposed of as “ no dispute ”.and accordingly “No Dispute Award ” is being passed.

This is my award accordingly.

Dictated & Corrected by me.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय पंजाब नेशनल बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना (बिहार) के पंचाट (संदर्भ संख्या 06 (सी)/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.07.2019 को प्राप्त हुआ था।

[सं. एल-12011/16/2018-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1384.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06(C) of 2018) of the Industrial Tribunal, PATNA (BIHAR) as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 24.07.2019.

[No. L-12011/16/2018-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No. 06 (C) of 2018

Between the management of The Circle Head, Punjab National Bank, Circle Office, G.M.Road, P.O Lalbagh Darbhanga-846004 and their workman Shri Dinesh Kumar Mehtar, Part Time Sweeper represented through the President, Bank Employees Federation, Bihar Saboo Complex, 2nd Floor, Behind Republic Hotel, Exhibition Road, Patna (Bihar)-800001.

For the management : Mrs. Preeti, Dy Manager, HRD

For the Workman : Sri B. Prasad, President of Bank Employees Federation, Bihar

Present: Vishweshwar Nath Mishra, Presiding Officer,
Industrial Tribunal, Patna.

AWARD

Patna, dated- 08th July, 2019

By the adjudication order no.-L-12011/16/2018-IR(B-II) dated- 03.08.2018 the Govt. of India, Ministry of Labour, New Delhi has referred under clause (d) of sub-section-(1) and sub-section-(2A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “the Act”), the following dispute between The Circle Head, Punjab National Bank, Circle Office, G.M.Road, P.O Lalbagh Darbhanga-846004 and their workman Shri Dinesh Kumar Mahtar, Part Time Sweeper represented through the President, Bank Employees Federation, Bihar Saboo Complex, 2nd Floor, Behind Republic Hotel, Exhibition Road, Patna (Bihar)-800001. for adjudication to this tribunal:-

SCHEDULE

“Whether regularization is an industrial dispute under the ID Act, 1947, if yes, whether the claim of Shri Dinesh Kumar Mehtar, Part Time Sweeper working at Benipatti Branch, Punjab National Bank, from 11/05/2016 for regularizing of services is legal and justified? If yes, to what relief the workman concerned is entitled and to what extent?”

2. After receipt of the reference / notification, notices were issued to the parties concerned through registered post. Both parties appeared before this tribunal and representative of the workman filed statement of claim. Several opportunities were given to the management for filing written statement but the management failed to file any written statement in this case.

3. Brief case of the workman is that the Punjab National Bank opened a Branch at Benipatti in 11.05.2016 and Sri Dinesh Kumar Mehtar, the concerned workman was orally appointed to discharge the duties of a Part Time Sweeper thereat. There was a permanent vacant post of a Part Time Sweeper under ½ scale wages of a subordinate staff.

(b) After appointment the workman used to discharge all the duties of a sweeper viz:- (i) Opening of Banks Gate; (ii) Sweeping, cleaning the Branch Premises, Bath Room, Counters, Tables, furniture etc. (iii) Other sundry jobs of a sweeper / peon also.

Further case of the workman is that the workman has been discharging the duties from 9A.M to 5.30P.M regularly. Initially, the workman was paid wages @ Rs 50/- per day which was raised to @ Rs. 154/- per day. Presently, the workman is being paid per day wages @ Rs. 154/-.

Seeing no scope of redressal of his grievances for regularizing his services as a Part-Time Sweeper, the workman caused an Industrial Dispute raised as per the provisions of I.D.Act which culminated in reference of the dispute before the this tribunal for adjudication.

Although the workman has been discharging the duties for over 3 years, he has been denied the benefits of permanent workman viz-Provident Fund, Leave, Medical benefits, LFC, etc.

Workman prays for relief for regularization of his service as a Part Time Sweeper under ½ scale wages of a full time subordinate staff, payment of due wages for the period of his working.

4. On 27.06.2019 both parties appeared and submitted that the matter has been settled out side the court. The workman Shri Dinesh Kumar Mahtar is physically present in the court. He accepted the factum of compromise arrived at between the parties. In his disposition he was stated that while the matter was pending before this tribunal, the Bank advertised vacancies and decided to employ him in the services of the bank on regular basis. The witness has further stated that as the management has decided to regularize his services, he does not want to proceed with this case any further and the same should be disposed off.

5. Heard the representative of both the parties and perused the record, pleading and evidence available on the record. As the management is ready to engage the workman in the service, therefore, his grievances has been redressed and as such no longer and dispute exists between the parties and this reference is disposed of as "no dispute".and accordingly "No Dispute Award" is being passed.

This is my award accordingly.

Dictated & Corrected by me.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2019

का.आ. 1385.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय पंजाब नेशनल बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना (बिहार) के पंचाट (संदर्भ संख्या 09 (सी) / 2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/79/2015-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 24th July, 2019

S.O. 1385.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 09(C) of 2016) of the Industrial Tribunal, PATNA (BIHAR) as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 24.07.2019.

[No. L-12012/79/2015-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No. 09 (C) of 2016

Between the management of The Circle Head, Punjab National Bank, G.M.Road, Akashvani, Darbhanga-846004 and their workman Sri Gunjan Kumar, represented through the General Secretary, Punjab National Bank Staff Union, 2nd floor Saboo Complex, Behind Prema Honda Show-Room, Patna (Bihar)-800001.

For the management : Sri Arvind Indwar, Senior Manager, HRD

For the Workman : Sri B. Prasad, President of Bank Employees Federation, Bihar

Present: Vishweshwar Nath Mishra, Presiding Officer,
Industrial Tribunal, Patna.

AWARD

Patna, dated 25th June, 2019

By the adjudication order no.-L-12012/79/2015-IR(B-II) dated- 18.02.2016 the Govt. of India, Ministry of Labour, New Delhi has referred under clause (d) of sub-section-(1) and sub-section-(2A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as "the Act"), the following dispute between The Circle Head, Punjab National Bank, G.M.Road, Akashvani, Darbhanga-846004 and their workman Sri Gunjan Kumar for adjudication to this tribunal:-

SCHEDULE

"Whether the action of the management of Punjab National Bank, Darbhanga in terminating the Service of the workman Sri Gunjan Kumar is justified on the basis of denying Natural Justice? If not, what relief he is entitled to?"

2. Before this reference one I.D.Case No.- 11© of 2015 was filed by the workman Sri Gunjan Kumar u/s-2A (1 &) of the I.D.Act (Amendment) 1947.

As per the case of the workman he raised Industrial Dispute before the Assistant Labour Commissioner (C), Pakur vide application dt- 27.05.2015. The Assistant Labour Commissioner (C), Pakur held conciliation proceeding. As a

period of three months elapsed with no sign of any settlement, the workman filed this Industrial Dispute Case in this tribunal. In the mean time the matter was also referred by the Central Government (Ministry of Labour/Shram Mantralaya) vide order dt- 18.02.2016 as aforesaid. Further by order dt- 06.04.2016 as in both the I.D Case and Reference Case the parties were same and the matter for adjudication was also the same therefore, both the cases were made analogous. Later on a petition was filed by the workman on 09.07.2018 for segregating Reference Case No.- 09(C) of 2016 from the I.D.Case NO.- 11(C) of 2015 and for adopting the written statement, evidences as well as other materials available in the I.D.Case in the Reference Case. The petition was allowed by this tribunal on 04.12.2018 and the prayer of the workman was accepted by this tribunal.

3. The case of the workman is that he applied for the post of clerk on 28.09.2011 as per the notification of institute for Banking Personnel services (IBPS) for recruitment of clerks in public sector bank. The IBPS conducted written test for recruitment of clerk on 11.12.2011. The case of the workman is that prior to the aforesaid examination he suffered mild paralytic attack in the month of October, 2011 and he underwent medical treatment for his recovery. The workman appeared in the written test on 11.12.2011 at his Patna Centre and signed the attendance sheet. Due to paralytic attack some trembling problem developed in his finger causing lack of resemblance in his handwriting / signatures. The result of the aforesaid examination was declared on 29.02.2012 and the workman was declared successful and was called for interview at Zonal Training Centre, Rejendra Nagar, P.N.B at Patna where he appeared before the interview board on 07.01.2013. On the basis of the written and oral examinations, the workman was declared successful and was selected for appointment in P.N.B. The final result was published in February-2013. Further the Punjab National Bank issued appointment letter in favour of the workman with instruction to report for joining at Zonal Training Centre, Jaipur, Rajasthan on 11.03.2013. The workman accordingly joined the services of the bank on 11.03.2013. The workman was informed that one Chandan Kumar had lodged complaint against him regarding his recruitment. Chandan Kumar is non else than own cousin of the workman with whom there was old animosity. Chandan Kumar was also preparing for bank examination and he also appeared in the same examination conducted by IBPS but he could succeed. Chandan Kumar was fully aware about the illness of the workman and also aware about lack of resemblance in the handwriting / signatures of the workman. Chandan Kumar out of jealousy, animosity and frustration, lodged complaint against the workman. At the time of reporting to Zonal Training Centre, Jaipur for joining he furnished an affidavit before the authority of the bank and thereafter he was allowed to join the services of the bank on 13.03.2013. After completion of Training programme he reported for duty at Circle Office, Darbhanga on 25.03.2013 from where he was posted at Basbitti Branch in the Supaul District, where he joined on 26.03.2013 and thereafter he was transferred to R.K.College, Madhubani Branch and joined duty on 13.04.2013. Later on vide order dt- 21.05.2013 he was directed to appear before the committee of the bank on 04.06.2013 at New Delhi and accordingly he appeared before the committee and submitted the correct position. Later on charge sheet dt0 18.02.2014 was served upon the workman for alleged selection in bank through impersonation in the common written examination. The workman duly replied aforesaid charge but the management not being satisfied with the reply of the workman decided to hold domestic enquiry for which enquiry officer and presenting officer were appointed.

It is the case of the workman that the domestic enquiry was not conducted fairly and properly. The learned enquiry officer failed to examine the complainant in course of enquiry. The handwriting expert on whose report the learned enquiry officer relied upon were not examined in course of enquiry. The enquiry officer submitted one sided report and he failed to discharge his duty as a quasi judicial authority and principles of natural justice were also not followed. The learned disciplinary authority also acted with closed mind and biased attitude while issuing the charge sheet, accepting the enquiry report and passing the final order without taking into consideration the material facts submitted by the workman. The disciplinary authority also failed to supply copy of recommendation of the CVO and violated the CVC guidelines. The workman is innocent and did not commit any misconduct and he fell victim to the circumstances. The workman has prayed for his reinstatement with back wages and all consequential benefits.

4. In this case management appeared and filed his written statement in the form of preliminary objection controverting the claim of the workman. According to the case of the management the workman Gunjan Kumar got himself selected in the bank service through impersonation in the common written examination for recruitment of clerical cadre in Public Sector Banks conducted by Institute of Banking Personnel Selection (IBPS) Mumbai on 11.12.2011, for which charge sheet was served upon him on 18.02.2014 under clause 5(m) and 5(o) of the Bipartite Settlement dt- 10.04.2002. Gunjan Kumar submitted his reply on 25.02.2014 but the same was not found satisfactory and disciplinary authority instituted departmental enquiry vide order dt- 10.03.2014 to look into the truth of the charges. The enquiry officer and presenting officer were appointed to conduct the departmental enquiry. After conducting enquiry, enquiry officer submitted his report on 02.06.2014 to the disciplinary authority. The disciplinary authority sent a copy of the enquiry report to the workman to submit his comments to the report of the enquiry officer. The workman Gunjan Kumar submitted his reply on 16.07.2014. The learned disciplinary authority proposed the punishment of dismissal without notice vide show cause notice dt-09.09.2014 after considering the enquiry report. Further the workman appeared on 20.09.2014 before the disciplinary authority with his defence representative for personal hearing. After personal hearing and due consideration of the whole facts of the case, the disciplinary authority passed final order on 22.08.2015

confirming the punishment of “dismissal without notice”. The workman filed an appeal against the order passed by the disciplinary authority and appellate authority also after personal hearing of the workman passed the final order on 22.08.2015 confirming the punishment imposed by the disciplinary authority and thus rejected the appeal of the workman.

5. In this case the workman Gunjan Kumar got himself examined as W.W-1 and he also got examined one Dr. Siya Ram Mishra W.W-2.

W.W-1 Gunjan Kumar in his deposition has stated that he had applied for the post of clerk in the year 2011 and accordingly he appeared on 11.12.2011 in the examination conducted by IBPS for recruitment of clerks in Public Sector Banks. He has denied the allegation of the bank that some other person appeared in the examination in his place. This witness has proved admit card which has been marked as Ext.-W1. The admit card bears the signature and LTI of the workman as well as the signature of two invigilators. This witness has stated that he put his LTI and signature in the examination hall on 11.12.2011 in the presence of invigilators. He has further stated that after comparing his photo on the admit card, he allowed to appear in the examination. The admit card was not sent to the handwriting expert for examination by the management. This witness has further proved the application dt- 11.03.2013 which has been marked as Ext.-W2 which also bears his signature and LTI. This witness has further proved his interview letter which has been marked as Ext.- W3 which also appears his signature and thumb impression and the said interview letter was also not sent to the expert by the management. This witness has further proved the attendance sheet dt- 11.12.2011 which has been marked as Ext.- W4. This attendance sheet also bears his signature as well as LTI which were taken in examination hall incourse of the examination. This witness has admitted in his deposition that there is some difference his signature as well LTI because at that time there was some tremble in his hand and while he was busy writing his answers the invigilators took his signature and LTI in haste. This witness has further proved charge sheet which has been marked as Ext.- W5. He has stated that before issuing the charge sheet he was called to the head quarter and while he was interrogated his answer sheet was not produced before him. The answer sheet was also not produced before him incourse of the domestic enquiry. No handwriting was expert was examined during the domestic enquiry. The prescription of the doctor as well as the report of the hand writing expert Miss. S. Fatma were not accepted during the domestic enquiry. The disciplinary authority passed the order on 22.05.2015 without examining his documents. The Appellate Authority also passed order on 22.08.2015. This witness has proved both the order passed by the disciplinary authority as well as Appellate Authority Ext.-W6 & W7 respectively. He has further proved Ext.-W8 which is the letter given by the defence representative of the workman before Appellate Authority by which the prescription of the Dr. Siya Ram Mishra and the report of the handwriting expert Miss S. Fatama was produced. This witness has proved the report of Miss. S Fatma which has been marked as Ext. W9 and the medical prescription of Dr. Siya Ram Mishra which has been marked as Ext.- W10. This witness has denied the charges which were levelled on the basis of a complaint.

This witness in cross-examination has stated that he was in possession of the admit card before appearing in the examination. He got the admit card by down loading the same, where as attendance sheet was supplied to him in the examination hall itself. This witness in cross-examination has stated that some documents were produced during the enquiry by his defence representative but the same was not accepted by the enquiry officer. Show cause notice was also given to him by the disciplinary authority before passing the order. He has also stated that during the enquiry he gave the name of his witness but Dr. Siya Ram Mishra and expert Miss. S. Fatma were not examination during the domestic enquiry.

W.W-2 (Dr. Siya Ram Mishra) is the witness who had treated the workman Sri Gunjan Kumar. This witness in his deposition has stated that Gunjan Kumar was suffering from meningitis. In this decease the patient suffers from vomaiting, high fever, sever headache, tramble in different organs of the body. The workman Gunjan Kumar was under his treatment and though he recovered from the illness but there was weakness in body and trembling in his hands and feet, which continued for about three months. This witness has further stated that as the hand trembles in this decease, there was every possibility that some difference occur in the signature and thumb impression of the patient. This witness has proved his prescription which was in his handwriting and beared his signature (Ext.- W10).

This witness in his cross-examination has stated that the workman Gunjan Kumare was under his treatment from last week of Oct-2011 till 1st week of December,2011. The patient suffering from the meningitis take at least about three months in fully recovering the same. This witness has stated that he was not called by the bank in the domestic enquiry.

6. In the case on 06.08.2018 a petition was filed on behalf of the workman praying therein to adopt the deposition of the expert Miss. S. Fatma in the present proceeding which has been recorded in this case earlier incourse of hearing on fairness of domestic enquiry. There was no objection on behalf of the management and accordingly prayer was allowed.

Miss. S. Fatma in her deposition has stated that she had examined the handwriting and LTI of Gunjan Kumar. The disputed LTI was marked as D-1 and same was compared with A-1 to A-4. D-1 was attendance register. A-1 was the attendance relating to the examination. A-2 and A-3 were LTI of Gunjan Kumar on the petition filed by the Gunjan Kumar. A-4 was the thumb impression and call letter. A-1 to A-4 were admitted thumb impression and the same were

compared with the disputed thumb impression. The technical character of both the impression were similar to each other and the expert came to the conclusion that both the impressions were of the same person. The expert has further stated that she also examined signature of Gunjan Kumar. The disputed signature on the photo stat copy of the attendance sheet was marked as Q-1. The aforesaid signature of Gunjan Kumar was compared with the signature marked as B-1 to B-5 appearing on call letter, application form, affidavit and interview letter. The expert has opined that the disputed as well as admitted signature were similar to each other. This witness has proved her letter as well as the different photograph as Ext.-W/1.

This witness in her cross-examination has admitted that all the papers / documents which have been mentioned in her report were provided by the Gunjan Kumar. She did not any take help of the management in preparing her report.

7. On the other hand three witnesses were examined on behalf of the management on merit and all the three witnesses are the expert who examined the signature and thumb impression of the workman Gunjan Kumar.

M.W-1 (Ashok Kashyap) in his deposition has stated that the bank has sent four papers / documents relating to Gunjan Kumar. The papers sent to the this witness contain attendance list of the candidates dt-11.12.2011, the handwritten petition dt- 11.03.2013 of Gunjan Kumar which was given to chief manager, P.N.B, the affidavit which was given by Gunjan Kumar and the interview letter dt- 07.01.2013 which was issued by P.N.B. This witness was asked to examine the signature and thumb impression of Gunjan Kumar appearing on the aforesaid four documents. This witness after examining the four documents submitted his report on 10.05.2013 and he proved his report which was marked as Ext.-A. This witness in his deposition has further stated that he marked the finger print appearing on attendance list as Q-1. The super imposing finger print appearing on Q-1 has marked as Q-2 and they were compared with authentic finger print S1 & S2 appearing on handwritten letter dt- 11.03.2013 and also with S3 interview call letter dt- 07.03.2013. The expert in his deposition has stated in his opinion that the disputed print Q-1 do not tally with admitted print S1, S2 & S3, it means both the admitted and disputed prints are two of difference persons.

This witness in his deposition has further stated that he also compared the disputed signature (D-1) appearing on attendance list dt- 11.12.2011 with admitted signature A-1 appearing on handwritten letter dt- 11.03.2013, A-2 & A-3 appearing on affidavit dt- 12.03.2013 and A4 & A5 appearing on interview call letter dt- 07.01.2013. After comparing the aforesaid dispute and admitted signatures this witness came to the conclusion that the disputed signature appearing on the attendance list has not written by the person whose signature are A1 to A5.

This witness in his cross-examination has stated that he was not called by the bank incourse of the internal enquiry. The original application which was sent by Gunjan Kumar to IBPS was not provided to him for comparison. The copy of the answer sheet of the examination dt- 11.12.2011 was also not provided to him. He has further stated that he examined the super imposing LTI but he cannot give any opinion on the same.

M.W-2 (J.S.Shiv Kumar) is the director of Truth Labs who is in deposition has stated that the bank provided him.

- (i) photo copy of attendance list of IBPS dt- 11.12.2011.
- (ii) photo copy of interview call letter dt- 07.11.2013 containing standered signature marked "S1" (along with original document).
- (iii) photo copy of letter dt- 04.06.2013 containing standered signature marked S2 & S3 (along with original documents).
- (iv) photo copy of letter dt- 11.03.2013 containing standered signature S4 & S5 (along with original document) for examination.

After examination of the aforesaid documents and after comparing the standered signature which has been marked as S1 to S5 with signature marked as 'Q', he gave the opinion that the person who wrote the signature marked as 'S1 to S5 ' did not write the signature marked as 'Q'.

This witness in his cross-examination ha stated that the answer sheets of examination were not supplied to him for examination. He also did not asked the bank for the answer sheets. On the basis of the comparision of the admitted signature with the disputed signature he came to the conclusion that the person whose signature has been marked as ' S1 to S5 ' did not write the signature which has been marked as 'Q'. He has further stated that it is not a fact that the concerned party approached him and he gave his report as per his choice and requirement. He has also stated that he did not appear during the domestic proceeding conducted by the bank. It is not a fact that he deposed here as per the instruction of the bank.

M.W-3 (M. Josaf) is the Director Finger Print Unit Truth Labs, Hyderabad. This witness in his deposition has stated that on examination he found that the question thumb impression against the name of Gunjan Kumar marked as

'Q' at serial no.- 349 of the attendance list dt- 11.12.2011 is smudged. He was of the opinion that thumb impression marked as 'Q' is unfit for comparison. He has proved his report which has been marked as Ext.-A/2.

In his cross-examination he has stated that he was only required to examine thumb impression but after comparing the same he came to the conclusion that the same was unfit for comparison.

8. The learned representative of the workman submitted that the enquiry against the workman started by the management after getting complaint petition by Chandan Kumar, Praveen Kumar and Goutam Kumar against the workman, who in their applications alleged that Gunjan Kumar never appeared in the examination and in his place some other person appeared in the examination hall but those persons were not examined as witness incourse of the enquiry . The name of Chandan Kumar and Praveen Kumar was also given as witnesses on behalf of the management in this tribunal for their examination but management failed to produce any of them in this tribunal. The learned representative of the workman further submitted that original application of Gunjan Kumar which has been sent to IBPS as well as answer sheet of Gunjan Kumar relating to the examination were not supplied to the expert for their examination. There was also no definite opinion with regard to the thumb impression of the workman appearing on the attendance sheet by any of the expert. He further submitted that expert Miss. S Fatma examined on behalf of the workman has clearly stated that the disputed thumb impression and signature as well as authentic thumb impression and signature were one and the same person. The learned representative of the workman further submitted that the workman had suffered an attack of meningitis in Oct.-2011 for which he was treated by the W.W-2 Dr. Siya Ram Mishra and although recovered from the illness but his hands & legs used to tremble and at the time of examination the same continued which resulted in the difference of signature appearing on the attendance sheet (Ext.-W/4). The workman in para-5 of his deposition and the W.W-2 the Dr. Siya Ram Mishra also admitted this facts in their deposition. The workman himself appeared in the examination on 11.12.2011 conducted by IBPS and it is wrongly alleged by the management that some other person appeared in his place and became successful. It was further submitted that the workman Gunjan Kumar put his signature and thumb impression on the admit card in the examination hall in presence of the invigilators. No any other person appeared in the examination on his behalf. But workman was allowed to appear in the examination after comparing his photograph on the call letter / admit card (Ext-W/1) but the admit card was not sent by the management to the handwriting expert similarly the interview call letter (Ext.-W/3) which bears signature and thumb impression was also not sent to the expert. It was further submitted that disciplinary authority passed order on 22.05.2015 without examining the papers of the workman. He appeared before the Appellate Authority on 20.08.2015 along with his defence representative and submitted the report of handwriting expert (Ext.-W/9) and medical prescription report (Ext.- W/10) but the aforesaid documents were not considered by the Appellate Authority. It was further submitted on behalf of the workman that the management failed to produce any witness in this tribunal regarding non appearance of the workman Gunjan Kumar in the examination hall. The invigilator and the centre superintendent would have been the best and competent witness to support the allegation of the management against this workman. The allegation levelled again workman is not based on substantial evidence rather the same is based on very weak foundation. It was further submitted that the enquiry officer did not accept the expert report and doctor prescription produced by him. It was further submitted that CVC guide lines were also overlooked by the management in the case. The learned representative of the workman further submitted that in the present case the management passed final order against workman only on the basis of the opinion of the handwriting and thumb impression expert which is not fair and just. In this regard he relied upon AIR 1963 SC 1728 Iswari Prasad Vs. Mohammad ISA. 1996 SCC (4) 596 S. Gopal Reddy Vs. State of Andhra Pradesh and one another judgement of the Hon'ble Supreme Court passed on 13.09.1963 in the case of Shashi Kumar Banerjee & Ors Vs. Subodh Kumar Banerjee in all this decision it was held by the Hon'ble Apex Court that evidence given by the handwriting expert can never been conclusive because after all, it is only an opinion evidence. The experts evidence as to handwriting being opinion evidence can rarely take the place of substantive evidence. Before acting on such evidence, it is usually to see if it is corroborated either by clear, and direct evidence or by circumstantial evidence. Another decision relied upon by the workman is the decision of the Hon'ble Patna High Court given in the case of Neel Bhushan Kumar Vs The State Bank of India & Ors on 04.04.2018 in which the author of the expert report was not examined.

But in my view this decision is not applicable in the facts and circumstances of this case as all the three experts were examine in this tribunal who are M.W-1 (Ashok Kashyap), M.W-2 (J.S.Shiv Kumar) and M.W-3 all those witnesses were fully cross-examined by the representative of the workman.

9. On the other hand the learned representative of the management fully supported his case and submitted that management has been able to prove his case fully on the basis of the materials available on the record. It was submitted that the workman Sri Gunjan Kumar was allotted Roll No.- 3060531891 by institute of Banking Personnel Selection (IBPS) Mumbai for appearing in the common written examination conducted at Patna Centre on 11.12.2011 for recruitment of clerical cadre in Public Sector Banks but he did not appear in the written examination held at Patna centre on 11.12.2011 and in his place some other person appeared in the written examination by putting forged signature and thumb impression, which differed from the original thumb impression and signature of Gunjan Kumar available on record. Gunjan Kumar has adopted unfair means for his selection in the bank. Sri Gunjan Kumar was served with charge sheet dated- 18.02.2014 for his gross misconduct in terms of clause 5(m) and 5(o) in accordance with the provisions

contained in the Bipartite Settlement dated- 10.04.2002. Shri Gunjan Kumar submitted his reply dated- 25.02.2014 which was not found satisfactory and the Disciplinary Authority decided to hold departmental enquiry to ascertain the truth. Copy of the documents upon which the management was relying against the workman were supplied to him. The workman was also given opportunity to take assistance of one Rahul Mishra as his defence representative. During the enquiry the workman gave the name of his two witnessess namely Sri Brahmaev Kumar and Deepak Kumar. He did not submit any documents during enquiry in support of his case. Those two witnesses were examine during the enquiry on behalf of the workman. The submission of the workman that his some documents namely the doctor prescription and expert report given by Miss. S. Fatma were not accepted by the enquiry officer is not correct. In fact no such document was produced during enquiry and those documents were tried to produce first of all only before the Appellate Authority. It was further submitted that full opportunity was given to the workman to defend his case and principle of natural justice were fully followed. He further submitted that the workman Sri Gunjan Kumar in para-5 of his deposition had admitted that there is some difference in his signature and thumb impression and the same was due to the reason that his hands were trembling due to illness he suffered earlier. But this facts has not come during the domestic enquiry and as such it appears that this plea and the aforesaid two documents were creation of after thought and the same cannot be relied upon. The learned representative of the management submitted all that the witnesses examined by the management are the expert who examined the thumb impression and signature of the workman and have fully supported the case of the management and have stated that the suspected signature were not written by the author of the authentic signature. The expert witnesses in their report as well as in their evidence have specifically stated that the disputed signature are forged one and not written by the person who wrote the authentic signature. The learned representative of the management further submitted that the thumb impression marked as Q-1 on the attendance sheet dated-11.12.2011 was superimposed with view to conceal the identity by the subsequent thumb impression marked as Q-2. This shows the malafide and ulterior motive on the part of the workman. The learned representative of the management further submitted that the plea taken by the workman that his interview call letter was not sent for expert examination is falsified by the evidence of M.W-1 Ashok Kashyap who in para-2 of his deposition has stated that the interview call letter dated-07.01.2013 was also sent to him for examination and the signature appearing on the same were marked as A4 & A5. The interview call letter was marked as Ext-W/3 in this tribunal. It was submitted by the management that the case of Gunjan Kumar is that of an impersonation and it is settled proposition that good conduct, discipline and integrity are the back bone of any employee of the bank dealing with public money and no bank can keep in its employment a person whose conduct is not up to mark and whose integrity is doubtful and as such the workman Gunjan Kumar does not deserves any relief.

10. After hearing both the parties and going through the pleading and evidence both oral and documentary available on the record I am of the view that the action of the management in terminating the services of the workman Sri Gunjan Kumar is justified. In my view in the present case principle of natural justice were fully followed and ample opportunity was given to the workman to defend his case through his defence representative. Although this tribunal vide its order dt- 25.04.2016 held that enquiry was not done properly and fairly because the enquiry officer based his report only on the basis of the report of the expert. In that very order also there was no mention of non application of principles of natural justice. The workman in his deposition has himself admitted that there was difference in his signature appearing on the attendance list (Ext.-W/4) and he tried to explain the reason for difference in his deposition and has stated that there was trembling in his hands due to the attack of the meningitis which he had suffered a few months back of his written examination and in support of his this plea he came with the prescription of the doctor(Ext.- W/10) who treated him. It is very strange that this plea was not taken by the workman during the entire domestic enquiry. Although a false plea has been taken by the workman that enquiry officer did not accept his documents, but in fact no such documents were brought by the workman during the enquiry and first of all he appeared with those fabricated documents only before the Appellate Authority which creates serious doubt about the genuiness of those documents. There is consistant evidence of the experts examined on behalf of the management that questioned signatures are forged signatures and not written by the person who has written the standered / authentic signature. Thus it is apparent that some other person appeared in the examination on 11.12.2011 conducted by the IBPS in place of workman Sri Gunjan Kumar and hence the management rightly terminated his service and the same is justified. The workman is not entitled for any relief in this case. This award is effected after date of publication and gazette.

And accordingly this is my award.

Dictated & Corrected by me.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 26 जुलाई, 2019

का.आ. 1386.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, अहमदाबाद के पचाट (संदर्भ संख्या 1263/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/385/98-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th July, 2019

S.O. 1386.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1263/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26.07.2019.

[No. L-12012/385/98-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 01st July, 2019

Reference: (CGITA) No. 1263/2004

1. The General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001

 2. The Regional Manager,
State Bank of India,
Region III, Zonal Office, 7th Office, Paradise Complex, Sayajigunj,
Baroda (Gujarat)

 3. The Manager,
State Bank of India,
Chouk Bazar, P.B. No. 1,
Surat (Gujarat) – 395003
- ...First Parties

V/s

Mr. Khushalbhai Barbhai Patel,
1, Mavapura, Nihora Nagar, Taluka Olpad,
Surat (Gujarat) - 395003

...Second Party

For the First Parties : Shri A.B. Gogia

For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/385/98-IR(B-I) dated 09.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the concerned workman Shri Khushalbhai Barbhai Patel has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Khushalbhai Barbhai Patel w.e.f. 03.03.1998 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 09.03.1999 and received on 17.03.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 10 on 25.08.2000 and the first party submitted the written statement Ex. 11 on 08.04.2002. The case was listed for cross-examination of parties.
3. On 01.07.2019, the second party workman Khushalbhai Barbhai Patel and the first party State Bank of India, Surat and others submitted the settlement Ex. 32 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman K.B. Patel vide Banker Cheque No. 666082 dated 01.06.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Banker Cheque No. 666084 dated 01.06.2019 and nothing has been left for further resolution. The said settlement Ex. 32 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 32 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 32. The settlement Ex. 32 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 26 जुलाई, 2019

का.आ. 1387.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 653/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.07.2019, प्राप्त हुआ था।

[सं. एल-41012/142/97-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, 26th July, 2019

S.O. 1387.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 653/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 26.07.2019.

[No. L-41012/142/97- IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 27th June, 2019

Reference: (CGITA) No. 653/2004

1. The General Manager,
Western Railway, Churchgate,
Mumbai
 2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004
...First Parties

V/s

For the First Parties : Shri Rajesh Singh Thakur

For the Second Party : Shri J. K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/142/97-IR(B-I) dated 09.03.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the Divisional Railway Manager (Estt.), Divisional Office, Western Railway, Baroda in discontinuing/terminating the services of Shri Manubhai Bhailal, Sealman w.e.f. 04.02.1998 is legal and justified? If not, to what benefits the workman is entitled to and what other directions are necessary in the matter?"

1. The reference dates back to 09.03.1998 and received on 28.03.1998 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
 2. The second party submitted the statement of claim Ex. 5 on 21.01.1999 and the first party submitted the written statement Ex. 8 on 17.07.2000.
 3. The second party workman in his statement of claim Ex. 5 has alleged that he was appointed by the establishment of the first party Divisional Railway Manager (Estt.), Western Railway, Baroda on 08.04.1982 on a Class 4 post required to do manual work in the pay scale of 785-940. At the time of his appointment, he was also subjected to medical examination which he falls in A (2) Category. The copy of the said selection letter is enclosed with the statement of claim. He worked from 08.04.1982 to 04.02.1992 and also worked for more than 240 days in every calendar year during the last 15 years. At the time of his appointment, he was also subjected to eye test in the medical examination and the medical officer declared him unfit but no certificate of declaring unfit was given to him and despite the said medical examination, he was permitted to continue for 15 years. He has further alleged that he was protected under Section 25 B of the Industrial Disputes Act as fall in A (2) category. He cannot be ordered to undergo further medical test as falling in C (2) category. Thus after 15 years, his services were terminated without following the provisions of Industrial Disputes Act and he has prayed for reinstatement with back wages. The statement of claim is enclosed with copy of showing the names of causal labours/substitute screened and placed on penal on TI-BH Beat wherein the name of the workman is placed at Serial No. 19.

4. The first party Western Railway in his written statement Ex. 9 has admitted the facts narrated in the statement of claim but objected the statement of claim on the ground that this Tribunal has no jurisdiction to entertain the reference and the relief sought is time barred and further submitted that this workman was initially engaged as Hot Weather Waterman on 01.04.1983. At the time of screening, his total working days were 374 and his name was empanelled at serial no. 19 in the list of substitutes under TI BH Beat notified vide ET/891/3/89 TI BH dated 15.09.1989. Before absorbing this workman as a regular employee, he was required to pass medical test in C (1) category as he has lump back. The screening committee recommended him for commercial category in which he was declared medically unfit. During the course of absorption as salesman, he was directed for requisite medical examination under Senior DMO who declared him medically unfit vide Certificate No. 340295 dated 18.07.1990/24.07.1990. Thereafter, he was sent to Chief Medical Superintendent for re-examination on relaxed standard but again he was found unfit due to physically disability. Though he was continued to serve by SM KBCS despite medical fitness but one of the trade union objected his continuity in service in the PNM meeting, therefore, after reconciliation, he was terminated vide letter no. ET/ZM/1351 dated 28.08.1992 in terms of CMS BRC's Certificate No. 216/2/1 dated 30.06.1992. Therefore, the reference has no force and liable to be dismissed.

5. On the basis of pleadings of both the parties, the following issues arise:

- i. Whether the action of the Divisional Railway Manager (Estt.), Divisional Office, Western Railway, Baroda in discontinuing/terminating the services of Shri Manubhai Bhailal, Sealman w.e.f. 04.02.1998 is legal and justified?
- ii. To what relief, if any, the second party workman is entitled?

6. **Issue No. i and ii:** As all the issues are interrelated, therefore, are decided together. The burden of proof of these issues lies on the second party workman who was examined by the Tribunal on 04.01.2001 wherein he has reiterated the averments made in the statement of claim and has not said anything contrary to his statement of claim in his cross-examination.

7. The first party examined Khumansinh Raulji, Chief/Superintendent who stated on oath that this workman was engaged as Hot Weather Waterman on 01.04.1983. At the time of regularisation of his service, his total working days were 374 and the screening committee recommended his regularisation for commercial category. He was also sent for medical examination where he was declared medically unfit; therefore, his services were terminated. In his cross-examination, he has stated that this workman declared medically unfit on 24.07.1990. He does not know as to whether the copy of certificate of medical unfit was served to this workman or not. He does not know as to whether his name in muster roll was struck off after declaring him unfit on 24.07.1990. He admitted that order of termination was not served on the workman. He was not paid any retrenchment compensation at the time of retrenchment. He was never promoted and served as seal man. He was never given a pay scale of 750-940 but he cannot produce any documents regarding service of the workman which he served for 10 years. He does not know that earlier he was declared medically fit. It is also true that after declaring him medically unfit, no alternative appointment was given to him. He also stated that the document Ex. 5/1 is true.

8. I heard the arguments of learned advocates of both the parties. From the perusal of evidence, it is admitted fact that as per the document Ex. 5/1 accepted as genuine and true by the first party witness, this workman/casual labour was found fit for commercial category in the medical category of A (2). This document Ex. 5/1 was dated 19.09.1989 but the first party has admitted that he worked till the year 1992. It is admitted fact that this workman was retrenched without serving any notice and paying retrenchment compensation. Gujarat High Court in Kutarbhai Keshalabhai Rathva V/s Assistant Geologist '2014 (1) Guj. Law Reporter Vol. 55 (1) Page 70' has held that under the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) 1995, a workman who is found medically unfit may be given the opportunity of alternative job available in the establishment. Thus after serving more than 9 years, a workman who was appointed in the medical category of A (2), later on found medically unfit for the post which he is holding, ought to have been shifted to the alternative suitable post. Said opportunity was denied to this workman and without serving notice and compensation to a workman who served for more than 240 days in every calendar year for 10 years, he was terminated from service. It is noteworthy that as per the admission of the workman, he has passed the age of superannuation. Thus in the light of aforesaid observation, the termination of the workman was against the provisions of Section 25 F of the Industrial Disputes Act, therefore, he ought to have been reinstated with back wages but as he has passed the age of superannuation, therefore, the workman be awarded a lump-sum compensation of Rs.175000/- (Rupees One Lac Seventy Five Thousand). Both the issues are decided accordingly.

9. The first party is directed to pay Rs.175000/- (Rupees One Lac Seventy Five Thousand) to the workman named Manubhai Bhailal within 60 days from the publication of this award.

10. The award is passed accordingly.

नई दिल्ली, 26 जुलाई, 2019

का.आ. 1388.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पचाट (संदर्भ संख्या 1264/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/379/98-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th July, 2019

S.O. 1388.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1264/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26.07.2019.

[No. L-12012/379/98- IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 01st July, 2019

Reference: (CGITA) No. 1264/2004

1. The General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001

 2. The Regional Manager,
State Bank of India,
Region III, Zonal Office, 7th Office, Paradise Complex, Sayajigunj,
Baroda (Gujarat)

 3. The Manager,
State Bank of India,
Chouk Bazar, P.B. No. 1,
Surat (Gujarat) – 395003
- ...First Parties

V/s

Mr. Prakash Chandrakant Chauhan,
Gokulnagar Chonpad Patti, R. No. 29,
Near Damber Factory, Bhatar – 1,
Surat (Gujarat)

...Second Party

For the First Parties : Shri A.B. Gogia

For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/379/98-IR(B-I) dated 09.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the concerned workman Shri Prakash Chandrakant Chauhan has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Prakash Chandrakant Chauhan w.e.f. 03.03.1998 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 09.03.1999 and received on 18.03.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 10 on 25.08.2000 and the first party submitted the written statement Ex. 11 on 07.01.2003. The case was listed for cross-examination of parties.
3. On 01.07.2019, the second party workman Prakash Chandrakant Chauhan and the first party State Bank of India, Surat and others submitted the settlement Ex. 34 stating that the matter has been resolved by way of onetime payment of Rs.20000/- (Rupees Two Lac) in the favour of second party workman Prakash Chandrakant Chauhan vide Banker Cheque No. 666083 dated 01.06.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Banker Cheque No. 666085 dated 01.06.2019 and nothing has been left for further resolution. The said settlement Ex. 34 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 34 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 34. The settlement Ex. 34 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 26 जुलाई, 2019

का.आ. 1389.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद, के पंचाट (संदर्भ संख्या 1266/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/380/98-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th July, 2019

S.O. 1389.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1266/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26.07.2019.

[No. L-12012/380/98- IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 01st July, 2019

Reference: (CGITA) No. 1266/2004

1. The General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001

 2. The Regional Manager,
State Bank of India,
Region III, Zonal Office, 7th Office, Paradise Complex, Sayajigunj,
Baroda (Gujarat)

 3. The Manager,
State Bank of India,
Chouk Bazar, P.B. No. 1,
Surat (Gujarat) – 395003
- ...First Parties

V/s

Mr. Dineshbhai Punjabhai Patel,
At Post More-Vagar Street,
Surat (Gujarat) – 395003

...Second Party

For the First Parties : Shri A.B. Gogia
For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/380/98-IR(B-I) dated 09.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEME

“Whether the concerned workman Shri Dineshbhai Punjabhai Patel has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Dineshbhai Punjabhai Patel w.e.f. 03.03.1998 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 09.03.1999 and received on 19.03.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.

2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 10 on 25.08.2000 and the first party submitted the written statement Ex. 11 on 08.04.2002. The case was listed for evidence of second party.

3. On 01.07.2019, the second party workman Dineshbhai Punjabhai Patel and the first party State Bank of India, Surat and others submitted the settlement Ex. 32 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Dineshbhai Punjabhai Patel vide Banker Cheque No. 428135 dated 06.06.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Banker Cheque No. 428136 dated 06.06.2019 and nothing has been left for further resolution. The said settlement Ex. 32 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 32 is accepted by the Tribunal.

4. Thus the reference is disposed of in the light of the settlement Ex. 32. The settlement Ex. 32 shall remain the part of the award.

5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 26 जुलाई, 2019

का.आ. 1390.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सहारा इंडिया परिवार के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 76/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.07.2019 को प्राप्त हुआ था।

[सं. एल-12011/70/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th July, 2019

S.O. 1390.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 76/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of M/s. Sahara India Pariwar and their workmen, received by the Central Government on 26.07.2019.

[No. L-12011/70/2012-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 26th June, 2019

Reference: (CGITA) No. 76/2013

1. The Director,
M/s. Sahara India Pariwar,
Command Office, Sahara India Bhawan, Kapurthala Complex,
Lucknow (Uttar Pradesh)

2. The Regional Manager,
M/s. Sahara India Pariwar,
4th Floor, Vraj Siddhi Tower, Khanderao Market Char Rasta,
Baroda (Gujarat) ...First Parties

V/s

The President,
 Factory Kamdar Mandal, 15, Om Complex, Opp. District Court,
 Bharuch (Gujarat) – 392001

...Second Party

For the First Parties	: None
For the Second Party	: Shri Azad Parihar

WARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/70/2012-IR(B-I) dated 04.04.2013 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of M/s Sahara India Pariwar through its officer in terminating the services of Shri Dhananjay Kumar Hariprasad Sainee w.e.f. 13.06.2007 is legal, just and proper? If not, to what relief the concerned workman Shri Dhananjay Kumar Hariprasad Sainee is entitled to?”

1. The reference dates back to 04.04.2013 and received on 22.04.2013 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. In response to the notice Ex. 2 issued to all the parties, the second party submitted the statement of claim Ex. 4 on 17.10.2016 and the first party submitted the written statement Ex. 5 on 17.10.2016.
3. The second party workman vide his statement of claim Ex. 4 has stated that he joined the first party M/s Sahara India Pariwar on the post of Assistant Junior Worker on 01.08.1995 at Kim. Later on 01.08.1996, his services were regularised/confirmed and he was transferred to its Branch Office at GIDC, Ankleshwar in the year 1999 on promotion. He served the first party with diligence, sincerity and honestly. While serving at Ankleshwar, Cashier of M/s Sahara India Pariwar named Mr. Gupta committed financial irregularities which he informed to the first party and said Mr. Gupta was put under suspension by the first party. Besides Mr. Gupta, the first party M/s Sahara India Pariwar wrong fully also put him under suspension on 11.08.2004. He was served with a charge-sheet on 24.01.2005 which he replied on 23.02.2005 denying all the charges levelled in the charge-sheet. A departmental enquiry was also initiated against him but he was not given due and fair opportunity of hearing by the first party and he was ordered to be dismissed in the enquiry, therefore, the finding of the enquiry was perverse and liable to be set aside. Therefore, he has prayed for quashing the order of dismissal of service besides declaring the finding of enquiry report as perverse, illegal and violating the principles of natural justice. He has also prayed for reinstatement with back wages.
4. The first party M/s Sahara India Pariwar submitted the written statement Ex. 5 on 17.10.2016 raising preliminary objections that the reference is bad for mis-joinder and non-joinder of the parties. The reference is barred with delay and latches as being moved after 5 years. It is wrong to say that the enquiry was violative of principles of natural justice as being given the proper opportunity of hearing and defending his case. After submitting written statement, none appeared from the first party till 06.03.2018 when Shri A.S. Parikh submitted his vakalatpatra Ex. 6. Shri A.S. Parikh later also informed the Tribunal that he is withdrawing his vakalatpatra from this case. Thus the reference was ordered to proceed ex-parte on 13.02.2019. The second party workman submitted his affidavit Ex. 8 along with number of documents including enquiry report which apparently appears to be sketchy. After withdrawing the vakalatpatra from Shir A.S. Parikh, none came from the first party to cross-examine the workman on Ex. 8; therefore, believing the affidavit Ex. 8, I come to the conclusion that the averments and statement made on the affidavit are believable.
5. Thus the prayers sought in the statement of claim are allowed. The first party is directed to reinstate the second party workman Dhananjay Kumar Hariprasad Sainee with back wages w.e.f. the date from which he was dismissed from service or deprived of full wages within 60 days from the publication of this award.
6. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 26 जुलाई, 2019

का.आ. 1391.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोटक महिंद्रा बैंक लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 329/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.07.2019 को प्राप्त हुआ था।

[सं. एल-12012/16/2018-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th July, 2019

S.O. 1391.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 329/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1, Delhi* as shown in the Annexure, in the industrial dispute between the management of Kotak Mahindra Bank Limited and their workmen, received by the Central Government on 26.07.2019.

[No. L-12012/16/2018- IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DELHI

ID No.329/2019

Shri Rohit Kumar S/o Shri Satya Narayan,
Marfat Audhogik Krantikari Karamchari Union,
F-308, Karampura,
New Delhi 110 015

...Workman

Versus

Kotak Mahindra Bank Limited,
Marfat Shri Shish Ram Hathwala,
Pravandhak,
F-19/12, Sector 8, Rohini,
Delhi – 110 085

...Management

AWARD

Reference under Clause (d) of Sub Section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 was received from the appropriate Government vide letter No.L-12012/16/2018-IR(B-I) dated 13.11.2018 for adjudication of an industrial dispute, terms of which is as under:

“Whether the action of the management of Kotak Mahindra Bank Limited to impose a punishment of ‘termination from service’ on Shri Rohit Kumar without hearing him is a violation of natural justice was proportionate? If not, what relief the workman (Shri Rohit Kumar Keshari) was entitled to?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Rohit Kumar opted not to file his statement of claim with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the workman. Despite service of the notice, workman opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. However, it is made clear that there is no adjudication of the case on merits, as such, the workman is still at liberty to agitate his cause in accordance with law. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : 18.07.2019

A. C. DOGRA, Presiding Officer